

















THE  
VINDICATION  
OF  
N. JEKYLL, ESQ.

*Late Captain of the 43d (or Monmouthshire) Regiment;*

WITH A COPY OF THE  
Proceedings of the General Court Martial

HELD ON

COLONEL STEWART,

Of the same Regiment;

TOGETHER WITH

THE SEVERAL MEMORIALS AND LETTERS

ADDRESSED TO

*His Royal Highness the Commander in Chief,*

The Right Hon. the Secretary at War,

AND THE JUDGE ADVOCATE GENERAL,

WITH THEIR ANSWERS,

*&c. &c. &c.*

THE WHOLE FORMING AN INTERESTING CASE

TO THE ARMY AND TO THE PUBLIC IN GENERAL.

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Selon que vous serez puissant ou miserable, les jugements de ———  
vous rendront ou blanc ou noir. LA FONTAINE.

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## INTRODUCTION.

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It appears to me an indispensable sacred duty, and a solemn obligation to society, that every individual, however humble may be his station in the scene of life, should, upon all occasions, exert his utmost to maintain unsullied an honest reputation : and that when a man, in the discharge of his duty to his king and his country, has been unjustly degraded, and his name branded with ignominy, as mine has been in the general orders proclaimed at the head of every regiment throughout the army, (the proper means of justifying himself being denied him,) it is insuperably incumbent on him,

not only in justice to the wounded feelings of his friends, as well as to his own character, but likewise to the community, to adopt every lawful and just expedient effectually to dispel the obloquy which he supposes to have been unduly heaped upon him. Therefore, as I cannot persuade myself that the gates of the usual course of justice have been fully and impartially opened to me, I am irresistibly prompted to submit to the attention of the public, and communicate to my friends, through the medium of the press, a case which I humbly conceive to be of no trivial moment to the interests of the greater part of the officers of the army, and even to the welfare of the state.

The reader will perceive, by the following copies of and transcripts from official documents, that I have felt myself to have experienced, in the course of my duty as a captain in the 43d regiment of foot, a series of the most unhandsome, egregiously unmilitary, and highly oppressive conduct \* from col. Stewart, in his command of that corps ; that I

\* Vide Letter to the Hon. major-general Forbes, p. 1.—  
Also, Specific Charges, p. 46.



was actuated by a sense of duty to his Majesty's service, after having made every possible sacrifice of my feelings as an officer and a gentleman, to exhibit a brief statement of my grievances to his Royal Highness the Commander in Chief; that, so far from my having met the support and aid which I expected a warm regard for the honor and good of the service would have yielded me, I was required to make humiliating acknowledgments and apologies, which no man of honest sentiment could have acceded to under the impressions which I believe I shall convince the reader I could not but have had of colonel Stewart; that, not having been able to reconcile to my mind those harsh concessions, I had to encounter uncommon disadvantages and almost insurmountable difficulties, in forming and in an attempt to substantiate my specific charges before a general court martial, assembled at Sandgate on the 25th of June 1824; that, from the occurrence of several extraordinary circumstances, I was unable to prove to the satisfaction of the court martial the facts upon which those accusations were grounded; and that, in

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consequence of the very severe sentence pronounced upon my conduct by the general court martial held on colonel Stewart, I have been in great disgrace dismissed from his Majesty's service; and after upwards of ten years services, (throughout which period I trust it might be found, upon inquiry, by vouchers from several military and political characters who have long ranked very high in the public estimation, added to testimonials now in my possession, that I have ever borne most fervently at heart the honour and interest of my king and of my country,) I am cast upon the world, my character unjustly stigmatised, with the *total loss* of a company which I purchased in the month of May 1795.

It will also be seen, that I have most earnestly implored his Royal Highness the Commander in Chief to pray that his Majesty would graciously be pleased to afford me an opportunity of justifying my conduct\* before a military tribunal,

\* By the laws of our glorious constitution, it is an established privilege of the subject that he shall be fully heard in every thing he may wish to urge in his defence, before a



upon the grounds of my case not having been investigated, by the court martial held on colonel Stewart, through the several very serious and material incidents—of my having been peremptorily refused the aid which I most particularly suppli-

judgment shall be passed that shall affect his life or property. For, although our laws decree the penalty of murder to be death, yet in some cases the fact of killing a man is not only justifiable, but even commendable in the eyes of those laws; wherefore a man's being seen with the bloody instrument, and acknowledging that he had taken the life of another who had been found slain, is not sufficient evidence to hang him, without a full and mature proof that the deceased had been killed under malicious motives or premeditated intent: and if judgment be passed upon that man without a most impartial and equitable trial, he, or his counsel in his name, may arrest that judgment, and appeal to the king in council, who is bound by the most possible solemn obligations to cause justice to be administered to the appellant according to the true spirit of the established laws and customs. Our most benevolent Sovereign has commanded that the civil codes be as far as possible regarded as forming the basis for the proceedings of courts martial. Until very lately it has been considered not only a matter of common equity, but of undoubted right, that if an officer failed in the prosecution of charges exhibited against another, he should be permitted to justify his own conduct in bringing forward those accusations before a court martial to be held upon himself.



cated, and which I as strongly represented as necessary to have enabled me to frame my grievances under specific charges for trial by a general court martial; of my having, from motives of earnest solicitude for the interest of my late regiment, avoided examining those officers whom I intended calling upon in evidence, to ascertain the nature and extent of testimony which I fully believed they might and would have afforded me; of my not having reflected, under an extreme agitation of mind occasioned by the subject of my charges, that matters which created the most painful sensations in my own mind could so soon have almost entirely escaped the memory of those officers who had witnessed the very galling humiliations of which I have complained; of several witnesses, belonging to my late company, not supporting at the time of trial the evidence they at first led me to believe they would have given upon my second charge; of my having, from a fervent zeal for the welfare of the state, declined calling upon one of the most essential witnesses of the occurrences

stated in my first charge\*, and likewise having improvidently entered upon the arduous task of a prosecutor of a commanding officer without two very important evidences (whose names I had given in at the same time with my charges), in consequence of their not having been summoned to attend the trial of colonel Stewart; and that, even in despite of these extraordinary circumstances, contrary to those principles which constitute the main spring of our civil and military laws, as well as in opposition to the glorious maxims which have particularly characterised the reign of our most beloved and most equitable Sovereign, my prayer for an investigation upon myself has been absolutely refused, under the pretext of *my case* “*having been already fully evidenced*” by a general court martial [held on colonel Stewart].

But, on the contrary, I must beg leave to state, that the court martial appeared so little disposed to make themselves acquainted with the motives through which my charges were submitted to

\* Lieutenant-general Sir Hew Dalrymple.

their investigation, or even to have been fully informed upon the subject of those accusations, that notwithstanding the Court repeatedly expressed, in very remarkable terms, great surprise at the excessive forgetfulness evinced by lieutenant colonel Leighton and major Barclay, [indeed major general Sir John Moore, the president, several times declared aloud to the Court, that, “captain “Jekyll was lost,” or had lost himself, from their extreme defection of memory, which he also said was “very far beyond what I could have supposed possible;”] and after it appeared to the Court that neither of those two officers remembered the particular phrase of the reprimands which I suffered from lieutenant-general Sir Hew Dalrymple, or the fact of my being called a “skulking captain” on the garrison parade, in consequence of colonel Stewart’s erroneous report to him, I was not permitted from compliment to Sir Hew Dalrymple, (“because he was not present to justify himself,”) to put a question to one of my own evidences of such essential moment to my first charge, as, “whether I was reprimanded in terms



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“degrading to the feelings and character of an officer and a gentleman?”

The testimony given by Mr. Havelock (the paymaster of the 43d regiment) in support of my assertion of having had colonel Stewart's permission to leave my recruiting party at Jersey in charge of the subaltern, seemed to have made such an impression (as may perhaps appear by the declaration of the president that I “was lost from the astonishing want of memory” of those officers who belonged to Sir Hew Dalrymple's staff) on the court martial, that I scarcely entertained a doubt but that my first and most serious charge would have been decreed substantiated, if I could have proved several facts that were avowed by colonel Stewart in his weak and incoherent defence, which more than confirmed what I stated in the second part of my first charge : I am also well assured, by some highly respectable persons, that many officers who were in the court, and who were unacquainted with either colonel Stewart or myself, declared their entire belief of the truth and justice of the accusations made in

my first charge against colonel Stewart, from the questions that were put by me to my witnesses, and from the answers made to them.

When I was obliged to stop in the prosecution from the circumstances just specified, I particularly informed the court martial that I reserved some very material matters, which I intended to mention in the course of the \*comments I should make on colonel Stewart's defence: but my very earnest entreaty to be suffered to relate to the Court several matters which I considered of great importance to my case, was most peremptorily denied, upon the plea of "colonel Stewart's not having called forward any evidence."

Therefore whether the court martial was perfectly warrantable in pronouncing that my accus-

\* I conceived that a prosecutor, before a court martial; had an unquestionable right to make such comments as he thought proper on the defence, and was unfortunately confirmed in that supposition by the opinion of a professional gentleman of much respectability, who had had some experience in courts martial, and who attended as an assistant to me on the trial of colonel Stewart.

ations were “malicious and groundless,” and that I had endeavoured “falsely to calumniate the character” of colonel Stewart, in a manner “most highly injurious to the good of the service,” I shall leave to the decision of a candid and impartial public. But I must own it does not appear consonant with the solemn oath taken by each member individually, that he “*will not, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof as a witness by a court of justice, in a due course of law ;*” and I must presume to observe, that it is scarcely possible for any military man to imagine that the court martial could have expected otherwise, than that such a severe sentence (*on the face of the minutes submitted to the royal inspection*) upon my conduct would have occasioned the consequences which I am actually suffering, in the total loss of my company; and that, therefore, it seems to me very opposite to any acknowledged principle of justice or equity



with which I am acquainted, actually, to refuse my earnest prayer for permission to explain to the Court the sensations which compelled me to allege my complaints against colonel Stewart; also to shew the cause of my having ventured upon the prosecution without a sufficiency of evidence to prove the facts upon which they were formed: then knowing that, *from its own decisions*, the court martial must have been extremely uninformed upon my case, to pass an absolute decree which was to blast my character with an almost indelible odious imputation, and utterly to destroy my every prospect in a profession to which I had not only devoted a considerable portion of my little fortune, but in which I had passed upwards of ten years of the most valuable period of human life.

In addition to the several very forcibly-corroborating matters shewn in my comments on the defence, &c. I can adduce exceeding strong proofs of, at least, *the conviction I must ever have had*, that I had received colonel Stewart's sanction to obtain a short leave of absence from my recruiting



party, by the peculiar manner in which I returned to Guernsey upon that occasion ; I can shew, beyond the possibility of doubt, that I hired the vessel in which I left Jersey, and detained her a day or two for the express purpose of conveying a large batch of volunteers to Guernsey with me ; and that I also reserved some of my finest men from a detachment sent to head-quarters four or five days previous to my sailing, in order that I might appear with some little eclat upon my landing in Guernsey. And, as an important demonstration of how little colonel Stewart really was desirous of promoting the discharge of the Commander in Chief's orders, I must also inform the reader that I can evince that the \* drummer was avowedly sent with me, as a troublesome incumbrance upon my very small detachment, merely to prevent his forming a matrimonial connexion of which the colonel disapproved. Colonel Stewart knew him to be a very idle and drunken young man, and of course was aware that he

\* See Extract of Regimental Orders, p. 48.

would only have been of serious disservice to me at Jersey.

As to the latter part of my first charge, it stands, upon the face of the proceedings of the general court martial, incontrovertibly proved by the very statement of colonel Stewart. It remains then, I conceive, only to weigh these facts, combined with the very strong chain of circumstantial testimony and positive evidence stated in the following copies of official documents, in support of my having received from colonel Stewart the sanction to obtain a leave of absence from my recruiting party, which the colonel strenuously denied afterwards to Sir Hew Dalrymple; against the feeble tide of inconsistency and inaccuracy advanced by colonel Stewart in opposition to my assertion—to convince the impartial mind, that I have not been influenced by malice in exhibiting groundless charges against my late commanding officer.

I cannot persuade myself that there is a Briton, who has but the shadow of pretence to honest repute, who will declare that he believes our most benevolent Sovereign would have deprived me en-



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tirely of the company which, with his Majesty's approbation, I purchased in the 43d regiment, above ten years since ; would have abandoned me to labour under an ignominious sentence of a general court martial held on colonel Stewart ; without granting me an opportunity of vindicating my character, in exhibiting those charges, before a general court martial—had the Court noticed, in the close of their proceedings, the comments which were actually made by the president and other members, upon the amazing defection of memory shewn by those officers who composed Sir Hew Dalrymple's staff in the island of Guernsey, where the occurrences complained of in my charges happened ; and had the Court remarked, in their proceedings, the circumstance of my having intimated to the Court, when I was obliged to give up the prosecution, that I intended “ to state some important facts relating to “ my charges, in the comments I should make “ on the defence of colonel Stewart ;” and having been peremptorily silenced when I entreated to represent some considerations which I declared



myself to have conceived of the greatest importance to be communicated to the Court, upon the plea of colonel Stewart's "not having called upon any witnesses in his defence." Nor can I refrain from mentioning, that to maintain that my conduct in urging my complaints has "*been already fully evidenced*" by the proceedings of the general court martial held on colonel Stewart (under the circumstances represented by me for the information of his Royal Highness), seems to me a mockery of justice unexampled in the pages of our history, and a burlesque upon equitable trial scarcely to be paralleled even by the shocking annals of ancient or modern revolutionary despotism.

I must, in justice to the Commander in Chief, inform the reader, that I have strong reasons to surmise that the mind of his Royal Highness has been much prejudiced against me through egregious misrepresentations made by col. Stewart ; and have been credibly informed that col. Stewart's ingenuity has been exerted in stating the fact of his having indulged a ridiculous petulance in several

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times reprimanding me for not being on the private parade of my company, (after finding that I had no authority over the soldiers from not being supported in my duty, and meeting continual disrespect from the commanding officer, relating to my company, in the eyes of the men,) to inspect three or four files, sometimes less, at the time it would have been necessary to inspect a company of forty or fifty files, previous to the appointed hour of parade.

Not having been afforded, in compliance with my several earnest supplications made to the Commander in Chief, an opportunity of vindicating my conduct in preferring my complaints against colonel Stewart before a martial tribunal, I shall here beg leave to submit to the attention of the reader several very extraordinary facts, which decided me in a conception that it was an indispensable duty to lay open my grievances to headquarters; trusting that even the most prejudiced of my enemies will declare that longer to have remained silent, also not now to unveil to the public my case, as well as the following occurrences,



in a true perspective, would be treason to his Majesty, the state, and to myself.

I have stated \*, that previous to colonel Stewart's promotion to the 43d regiment I had had the honor of commanding (as the light infantry captain) the light company ; that upon colonel Stewart's joining that corps I assured him of my being very ambitious to command a good light infantry company, and to inculcate a very high state of discipline in my then company ; likewise that my first wish was to obtain the approbation of himself, as my commanding officer, by discharging every part of my duty in a manner that should fully meet his wishes ; also, that I have taken every opportunity of earnestly repeating those wishes ; that I have manifested the most anxious desire effectually to prove to colonel Stewart my zeal, by fervent petitions for liberty to discipline and instruct my company in the light infantry exercise and manœuvres ; notwithstanding my entreaties were always in vain,

\* See Letter to the honourable major-general Forbes, dated Feb. 5, 1804.



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and although I felt myself to have been very undeservedly and most unhandsomely treated by colonel Stewart in the course of my regimental duty; that after having borne as far as possible a series of conduct which I could not but regard as highly oppressive, and in its effects extremely injurious to good order and military discipline, I assured colonel Stewart that I would, in a sense of duty to the service, lay his conduct towards me fully open to the Commander in Chief; and that the long procrastination of that intended measure was principally occasioned by colonel Stewart's having gone abroad immediately afterwards, and by my having left the 43d regiment in the following month of November, in an ill state of health, produced by an agitation of mind; and not having rejoined the 43d regiment until the 25th of January 1804.

I must now add, that I was materially influenced in deferring my appeal to head quarters by a serious hope (which suggested itself to me after my nerves had been a little composed, and my health consequently somewhat recovered) that I

might perhaps be enabled to convince colonel Stewart forcibly of the great injustice of his conduct to me, by throwing together some drawings which I had made in the course of my military studies, and afterwards for my own amusement, of the nineteen manœuvres ordered by his Majesty for the practice and guidance of his regiments of foot, and those commanded for the observance of the light infantry and rifle corps, &c. which I had rather flattered myself might have been received as no frivolous indication of my having long borne a fervent zeal for that service of which I then had the honor of being a very humble member. Soon after I had indulged in this fruitless scheme, being at that period on the recruiting service, I was ordered (in the month of June 1803) to inspect out-pensioners, &c. at Marlborough, and was afterwards appointed to receive balloted men, &c. for the royal army of reserve, at Marlborough and Chipping Norton: in the course of which duty I had an opportunity of making some experiments in the drill of those recruits placed under my charge, likewise in the exercise

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of several newly enrolled corps of volunteers ; which succeeded with such effect, that I thought it of considerable moment to communicate the result to his Royal Highness the Commander in Chief, and to the public : I therefore arranged a little military compilation, which I presumed to lay before the Commander in Chief, who was graciously pleased to command colonel Clinton to express to me “ his Royal Highness’s thanks for the “ communication of the same ; and to acquaint “ me, that he very much applauded the zeal which “ led me to the study of those essential points of “ service, by which I had been enabled so accu- “ rately to delineate them ;” and further to say, that it was “ an example ” which his Royal Highness thought “ highly worthy of imitation.”

As the result of those experiments of which I have just spoken consisted in a positive conviction, that several very important points in the rudimental part of military movement, laid down in his Majesty’s Rules and Regulations (composed by general Sir David Dundas), had been egregiously



misconceived throughout the army (although those orders had been published, and commanded for the observance of every corps throughout the British service, since the 1st of June 1792), emotions of great diffidence and of extreme delicacy towards the Commander in Chief, and to the senior part of the army, prevented the developement of my views, in a manner sufficiently pointed to render my motives, in offering that little composition to the attention of the public, perfectly obvious; wherefore he was pleased likewise to signify, that he was not aware that the publication of that little work would prove of any essential service, the subject having been so fully treated of, and universally practised, by his Majesty's Orders and Regulations published to the army.

However I felt myself highly obliged by his Royal Highness's gracious condescension; which I imagined might have induced colonel Stewart at least to have acted in such a manner to me, as to have rendered my situation as a captain under his command not wholly intolerable. But, alas! I

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soon had but to know that those hopes, which surely cannot be called unreasonable, were utterly vain and delusive.

As soon as I reached Ashford (about the 25th of January 1804), the head quarters of the 43d regiment, I embraced the first moment to shew my little military compilation, with the letter from colonel Clinton, conveying the gracious sentiments of the Commander in Chief thereon, &c. to several of colonel Stewart's particular friends, from the motives I have before mentioned; and I took the first opportunity of submitting them to the inspection of colonel Stewart: but I found they merely afforded colonel Stewart an opportunity of exercising his powers of wit, by facetiously terming them at the mess, "proofs of my being "insane;" and that, although the senior captain of the 43d regiment, my company was affixed to the post in the battalion of the junior captain; and that I had only to expect from colonel Stewart a continuation of the most highly improper treatment which I had suffered from him in the island of Guernsey.

I likewise met with indisputable proofs of a seriously meditated plan to endeavour to effect at least my removal from the 43d regiment, through the influence which major general Sir John Moore is represented to hold with his Royal Highness the Commander in Chief.

Having been persuaded by several experienced officers, and by the impulse of my own very humble opinion, that, with some few additions, my little military work might be productive of some good to his Majesty's service, in the event of its being published, I resolved upon sending it forth into the world ; and wishing to present it to the attention of an officer of such high repute and interest as Sir John Moore has, by his meritorious services, justly acquired, I introduced several matters which I humbly thought would be found, upon inspection and trial, of great importance to the army ; and flattering myself with a hope that Sir John Moore would condescend to honor me with some matters that might essentially render my intended publication interesting to the army at large, I waited



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upon colonel Stewart (very shortly after my joining at Ashford), and requested leave of absence for two or three days, that I might go to Hythe, for the purpose of seeing the 52d regiment. At this time colonel Stewart was sending serjeants &c. to the 52d, to learn their methods of drill, &c. which were to be introduced in the 43d regiment. Colonel Stewart, with an air of seeming kind complaisance, assured me that he would forward my request to the honourable major general Forbes (who commanded at Ashford); but, in the course of a short conversation, I mentioned the object of my wishing to see the 52d regiment, which led colonel Stewart to ask whether I knew any officers of that corps? I replied in the negative; and added, that “having been acquainted  
“ with a brother \* of general Moore’s, I had  
“ been recommended to the general; and had  
“ been informed that he had done me the honor  
“ of saying, that in case of my serving under his  
“ command, I should be treated with attention at

\* A surgeon of great eminence, residing at present in Conduit-street.

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“ his table ; and that he would aid any views I  
“ might have towards promotion, as far as he  
“ should feel it in his power.” This seemed to  
confound the colonel, for he began to talk with  
evident great confusion ; attempted to persuade  
me that a line accurately formed according to a  
plan I had shewn him of dressing the companies  
when forming into line, must unavoidably advance  
in disorder ; but that a mode of forming the line,  
which he had introduced from the French system  
(and which is now practised under the command  
of major general Sir John Moore), would ensure  
the greatest precision in the subsequent movement  
of that line ; and concluded with informing me,  
that, upon further reflection, he thought it neces-  
sary I should be at the regiment, to make up for  
the drills, &c. which I had lost in my absence from  
the regiment, and that therefore he could not ac-  
cede to my petition. A day or two afterwards, I  
requested leave to be absent from the parades for  
*one day*, for the same purpose, and was refused.

I was informed, about the same time, by several  
officers, that when colonel Stewart joined the 43d

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regiment after his leave of absence, he addressed himself to the officers at the mess, saying, that  
“ the 43d regiment (being made a light infantry  
“ corps) was intended to be always with the 52d,  
“ and to be in every respect as the same; that,  
“ with regard to the officers, the system in the  
“ 52d (major general Sir John Moore's) regiment  
“ was, that if general Moore disliked any officer,  
“ or thought him unfit for his corps, his name was  
“ given in to the Duke of York, and that officer  
“ found himself (in the Gazette) removed from  
“ the 52d regiment by promotion or otherwise.”  
The colonel added, that there were some officers who then thought themselves safe and snug in the 43d regiment, but who would find themselves mistaken when that regiment should be removed from Ashford, and get under the immediate command of general Moore.

I also learnt (from authority which I deemed perfectly deserving of full credence) that colonel Stewart, speaking of myself at the mess, said,  
“ there's captain Jekyll, I wonder what general  
“ Moore will think of him! I am sure he'll not



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“think him fit for any regiment \*.” These facts, I trust, will sufficiently shew the reader how far

\* Perhaps colonel Stewart might have intended to reflect on the hesitation in speech which I have in common and uninteresting conversation; indeed the colonel once intimated to me an intention of removing me from the command of my late flank company on that account; but he must remember my expressing my sentiments to him, in reply, concerning his not having supported me in my duty, and never having suffered me to exercise that company, and that I thought it necessary to inform him upon that subject, in a letter dated Guernsey, Aug. 13th, 1802, “that I never found any difficulty in giving my words of command when on actual service; that I always gave my words of command in a very audible and clear voice; that the motions of the battalion were *never impeded or even retarded* by my not being able to give my words of command *in proper time*; that if I did not feel a thorough competency to command a light infantry company I should not aspire to the command of a battalion, and that therefore I should not voluntarily resign my company; but that if it were taken from me, I could not but consider it” (under the then existing circumstances) “a very serious grievance, and should state it as such to his Royal Highness the Commander in Chief.”

I took that opportunity of acquainting colonel Stewart that the great embarrassment and hesitation I felt in speaking to him “were the effect of the very warm and unhand-  
“some manner I had frequently experienced when I had  
“had occasion to address myself” to the colonel.

I mentioned to colonel Stewart, the day after his first assuming the command of the 43d regiment, that he would

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I was warrantable in declaring to the honorable major general Forbes's aid-de-camp, at

never perceive the slightest impediment in my giving the words of command, or instructions to the soldiers, when I felt at all confident upon what was about to be done, and that I was extremely impatient on that account to get my company in high order; that my hesitation did not proceed from any defect in the organs of speech, but from a trick acquired in infancy, and continued in uninteresting converse from the influence of extreme diffidence. I trust that the oldest officers of the 43d regiment could prove, that (until my mind was literally distracted by the unpleasant and humiliating conduct of colonel Stewart) when I have had a temporary command of the battalion, I have given all my commands without any embarrassment, and in an exceeding strong and articulate voice. Lieutenant general Sir Hew Dalrymple and major general M'Donald (who were stationed in Guernsey when colonel Stewart joined the 43d regiment), I doubt not, could testify, that at every review or inspection of the regiment I gave all my words of command to my company perfectly well; that at the days of general exercise, when the several regiments were brigaded, (which were frequent,) I was always appointed to command the left divisions of brigades, as being the senior light infantry captain, and that upon those occasions they never observed any sort of impediment in my speech; and perhaps major general Sir John Moore and his staff officers may assert, if called upon, that *when I was under the command of general Moore*, the manner in which I gave my instructions and words of command did not appear to them to render me "unfit for any regiment in his Majesty's service."

the time of presenting my letter praying for a short leave to go to Hythe, that I was well assured that colonel Stewart's objection to my going to Hythe arose from a surmise that I should thereby defeat a scheme formed by the colonel to work my destruction as an officer; and in expressing a firm belief, in my letter to major general Forbes, dated Feb. 7, 1804, "that colonel Stewart's motives for refusing my application for leave to be absent from the parades of one day, were very opposite to any connected with the discipline of his regiment \*."

I must beg leave to intrude a little further upon the indulgence of the reader, to relate several extraordinary facts in support of my declaration (in my letters to the honorable major general Forbes, dated Feb. 5th and 7th, 1804), that "under the command of colonel Stewart no officer, however zealous he may be to perform every duty in the

\* It seems to me still very extraordinary that I never was called upon to explain myself upon these remarkable assertions.



“ most exemplary manner, can be at all comfort-  
“ able, or even feel that his honor or reputation  
“ would be safe, unless he became an object of  
“ his *unjust partiality*.” Very shortly after colo-  
nel Stewart joined the 43d regiment it was re-  
marked that the colonel adopted two or three of  
the junior\* officers as confidential friends, and  
manifested his partiality to those gentlemen so  
far, that it was soon proverbially said, in the  
common conversation of the regiment, and indeed  
of the garrison, that “ the 43d regiment was  
“ commanded by the junior officers, and that the  
“ system was to make every thing as uncomfort-  
“ able as possible to the senior officers, in order  
“ to make promotion for the minions.”

It was observed, that a very worthy field officer,  
whose length of honorable services in the 43d  
regiment had justly yielded him the esteem and  
confidence of all his brother officers, and whose

\* By *senior officers* I mean, upon this occasion, and in my  
letter to major general Forbes, dated Feb. 7, 1804, the offi-  
cers of the longest standing in the regiment, and *vice versa*.

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conduct in the command\* of the 43d regiment at a critical juncture so highly raised him in the estimation of the Commander in Chief that his Royal Highness's good opinion was strongly manifested in his promotion, was never consulted in regimental affairs, and was treated as a mere cypher by colonel Stewart. When I (the senior captain) recommended a private to be advanced to a vacant corporalcy in my own company, I was answered, that "an inquiry should be made whether he was a proper subject;" and, among

\* These minions were, upon all occasions, held up as excellent officers, to the disparagement of the senior part of the regiment, who seemed always to feel that the commendations lavished upon those gentlemen were meant to imply that no other officers in the regiment were at all worthy to be admitted in competition with them.

The two principal favorites have successively been made adjutants to the 43d regiment; yet major general Sir John Moore thought it necessary, when the 43d regiment got under his command, to lay aside the arms at all drills, to form the officers in squads, and instruct each individual, to the sentinel, in every part of the ordered position of the soldier, and even in the *side step*, &c. which have been laid down as clearly and concisely as possible, in his Majesty's Rules and Regulations, published to the army near thirteen years since.

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many other instances of the most pointed slight and marked disrespect, the appointment of my non-commissioned officers was usually at the instance of one or other of the favorites, several of which were highly injudicious, and extremely disparaging to some good soldiers of my company. I was assured by a subaltern of unimpeached veracity (who is now on the half-pay), that he had intended to purchase a company in the 43d regiment, and had actually lodged his money at the agent's for the express purpose of succeeding to a captain who had signified an intention of selling out, but that he was so much disgusted with the unhandsome conduct of colonel Stewart towards him, that he determined to relinquish all further military pursuit, and retire upon half-pay; he stated, that he attributed colonel Stewart's unpleasant treatment to proceed from a wish to get him out of the regiment, with a view of promoting one of his minions. This officer also related a singular instance of astonishing conduct towards him; he mentioned, that after he had signified an idea of retiring from active service, he earnestly



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entreated colonel Stewart (through one of the field officers of the regiment) for a short leave of absence, on account of very urgent private affairs; the colonel said to him in answer, through the same channel, that “if he would resign to go on half-pay he would get the desired leave of absence for him.” That officer did consequently immediately present his resignation to colonel Stewart, in full confidence of then obtaining the desired leave, but which he never did get; indeed, in spite of his remonstrance, I witnessed his being compelled to mount guard in the island of Guernsey, after colonel Stewart and all the officers of the 43d regiment, had seen his name announced in the daily newspapers as gazetted on half-pay, under the pretext of “no official notification of his being absolutely gazetted having been received from the regimental agents,” although the recommendation of his successor, &c. had, in the usual manner, passed through colonel Stewart. Another subaltern (whose assiduous discharge of his duty whilst with the regiment had frequently been particularly remarked by colonel Stewart and

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by the whole corps) acquainted me, that having been recommended by general Smith, the colonel of the 43d regiment, to the Military Institution at High Wycombe, a notification had been sent to the commanding officer (colonel Stewart) by the adjutant general, that a vacancy having occurred it was his Royal Highness's pleasure that that officer should accordingly repair to High Wycombe, his name having been inserted on the list at the instance of general Smith ; that to his great surprise he had found, from official document, that colonel Stewart was exceedingly piqued that his recommendation of the beforementioned favorite had not been received by his Royal Highness in preference, and had consequently strenuously urged every objection in his power to his going to the Institution, and had even represented him as *a very unfit subject for it*, and an officer not possessed of military talent. Since my dismissal from the 43d regiment, colonel Stewart recommended that minion over the head of that same officer for promotion, who was accordingly gazetted for a vacant company in the 43d regiment ;

upon which that officer, feeling himself seriously aggrieved, represented the circumstance very spiritedly to major general Sir John Moore, who inquired into the case, and whose sentiments upon that occasion were most forcibly displayed in his recommending that officer instantaneously to the Commander in Chief; who was pleased to cause him to be appointed to a vacant company in the 40th regiment in the following Gazette. Colonel Stewart's conduct to a brother of that same officer was scarcely less astonishing; that young gentleman was, also at the recommendation of general Smith, appointed to an ensigncy in the 43d regiment. Colonel Stewart and his minions took an almost immediate prejudice against him after his joining the 43d regiment, and the colonel wrote to general Smith, expressing surprise at his appointment; adding, that he was a puny boy, and, in fact, such a child, that it was the *opinion of every officer present at the regiment* that he was such a burlesque upon the service that no general officer would allow him to pass him at a review. General Smith, of course (not having seen this



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young gentleman), from due respect to the supposed unanimous opinion of the officers of his regiment, immediately communicated the subject of colonel Stewart's representation to the friends of that young officer, with a request that they would adopt the necessary measures for his being withdrawn from the 43d regiment; and added an assurance that as soon as he should be properly qualified, agreeable to regulation, he would take care to have him re-appointed to the 43d regiment. From peculiar delicacy to the general his wishes were instantly complied with. Upon my joining the 43d regiment at Ashford, I was told of these things, and upon inquiry found that the officers had not given any opinion upon the subject, and that they had never been called upon so to do; that, on the contrary, several officers declared that they thought that officer had been cruelly and shamefully ill-treated by the colonel; and I also found that he was above the height required by the Act of Parliament for a private soldier of the army of reserve, beyond the age specified by the Commander in Chief's regulations as

sufficient for an officer to attain his first commission, that he was very active, and perfectly well made, and that he had an uncommon military talent; for although he never had been permitted to join his company at exercise or parades, he took up several drawings (of mine) of some of the most difficult manœuvres, and explained them in a manner that surprised me. An old officer of unquestionable veracity, belonging to the 43d regiment, also told me that colonel Stewart had made a false report of him to Sir Hew Dalrymple, and that he had consequently suffered an undeserved and severe reprimand from the lieutenant general.

I solemnly avow, that I do not relate these matters from the slightest impulse of spleen towards colonel Stewart, but that I am urged to bring them forward upon a most deliberate and dispassionate reflection that it is an insuperable duty to his Majesty's service, my friends, and myself, fully to evince the impressions which prompted me to regard myself as irresistibly bound to stand forward with my complaints, and to shew that I have neither been actuated by malice or

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falsehood in exhibiting my specific charges, or in any thing I have asserted in any of my statements of colonel Stewart's conduct in his command of the 43d regiment; also, that it is further a solemn obligation towards God and man, to develop to the public a system of iniquitous oppression which must soon extinguish every spark of manly sentiment in those officers who should feel the service (in which such abuses were prevalent) tolerable; and being convinced that the operations of an army commanded by officers who did not possess the most exalted sense of integrity and the most pure sentiment of honor, when opposed to a well-organized force, could only be marked with instability, confusion, and disgraceful retreat.

I must forewarn the reader that in the following documents he must expect much tedious repetition, which I lament (for his sake) I could not abridge in the sequel. In my subsequent letters to the Commander in Chief several matters which are fully detailed in my statement to lieutenant colonel Gordon, dated 6th of November, are repeated, from the circumstance of my having con-



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ceived, by a conversation with lieutenant colonel Gordon, at the Horse Guards, that it was probable that statement, &c. might not have been perused by his Royal Highness. I have arranged those documents according to the order of their dates. N. J.

# VINDICATION,

&c. &c. &c.

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*From N. Jekyll, Esq. to the Hon. Major Gen. Forbes.*

SIR,

Ashford, Feb. 5, 1804.

I HAVE the honor to acquaint you, that, with extreme concern, and even with great reluctance, I feel myself impelled by a sense of my duty to his Majesty's service to represent to you the most scandalous and infamous conduct of colonel Stewart, highly unbecoming the character of an officer and a gentleman, which I have experienced from him in the execution of my duty during his command of the 43d regiment; and to pray that you would be pleased to lay the same before his Royal Highness the Commander in Chief.

I declare upon my word and honor that I am not actuated by any views or motives of avenging private animosity in making this appeal, but that I am urged to it solely by a most thorough con-

viction that under the command of colonel Stewart no officer, however zealous he may be to perform every duty belonging to his rank in the most exemplary manner, can be at all comfortable, or even feel that his honor or reputation would be safe, unless he became an object of his most unjust partiality ; and that a continuation of the general tenor of colonel Stewart's most highly improper conduct towards myself, must be attended with the most serious consequences, to the prejudice of good order and military discipline.

I relate the following circumstance the first ; as the principal part of colonel Stewart's most unmilitary and unwarrantable conduct to me, concerning my late company, occurred subsequently.

On the 22d of February 1802, lieutenant general Sir Hugh Dalrymple received an order from his Royal Highness the Commander in Chief to cause a recruiting party from the 43d regiment, under the command of a captain, to go forthwith from Guernsey to Jersey. My name being the first upon the regimental roster for detachment duty, I was accordingly directed to take charge



of the party, and to proceed by the same packet which conveyed the order.

Colonel Stewart was aware that the party's intended object was to re-engage men from the loyal Irish fencibles for the 43d regiment, upon terms of general service. The colonel, when he gave me the order, and many times afterwards, said to me, that he was determined not to take a single man from that corps whom he could in any manner avoid; and previous to my departure he frequently gave me the most positive injunctions not to enlist more than four serjeants, six corporals, two drummers, and twenty privates, besides a few particular performers of the band, from that regiment; likewise he was pleased to express to me often, that he was sensible my mind must very naturally have been in a state of great anxiety and uneasiness on account of a case of extreme family distress, and that I had his permission to apply to general Gordon for a short leave of absence as soon as I had passed three or four days at Jersey.

In the course of a week I enlisted near an hundred of the flower of the loyal Irish fencibles; and by that time I found there was no probability

of procuring above four or five men more, except those who had engaged themselves to follow their comrades into the 43d regiment. Feeling confident that a continuance of the very zealous exertions of my subaltern (lieutenant Delisle) would obviate the possibility of any prejudice recurring to his Majesty's service through my absence for a short time from my detachment, I stated to lieutenant general Gordon the urgency of the circumstance for which I wished a short leave of absence, and represented my having had the sanction of colonel Stewart to make the application; upon which the commander in chief of Jersey was pleased to grant me leave for a fortnight. After having passed ten days at Jersey I returned to Guernsey, for the purpose of conveying to England an amiable wife, whom I had left there in a most deplorable and dangerous state of health.

Upon my landing in Guernsey I was extremely astonished to learn from brigade major Barclay (now major of the 52d regiment) that lieutenant general Sir Hugh Dalrymple had ordered me under an arrest, from colonel Stewart's having re-

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ported to him that I was quitting my detachment without his leave, and contrary to his particular orders. Not conceiving it possible that the colonel could have been capable of such most treacherous and most infamous conduct as the following day betrayed him to have been guilty of, I imagined there must have been some misunderstanding on the subject between the lieutenant general and colonel Stewart.

However a momentary reflection upon the very serious effect an *éclaircissement* would occasion to the colonel, and that perhaps it might serve to involve the 43d regiment again under the most dreadful weight of his Majesty's displeasure, induced me to resolve to take upon myself the consequence of Sir Hugh Dalrymple's displeasure, trusting that in the event of any unfavorable report being made to his Royal Highness the Commander in Chief, the testimony which I considered lieutenant general Gordon would bear of the zeal with which I had acquitted myself in the duty of re-engaging the men of the loyal Irish fencibles for general service, would remove any prejudice which it might at first create in the breast of his



Royal Highness against me. I suffered my leaving Jersey to appear as if it had been through a mistake (of mine) of colonel Stewart's intention; and upon the colonel's making a representation to that effect I was released from my arrest; but on the next day Sir Hugh Dalrymple gave me a most severe and galling reprimand, and threatened to report me to his Royal Highness the Commander in Chief; after which, colonel Stewart, with all possible solemnity, declared upon his word and honor, that he had *never uttered a syllable* by which *I could have thought, even for a moment*, that he would have given me leave to return from my detachment, unless I had been properly relieved by the consent of the general; and likewise added, that no consideration whatever would have induced him to act so contrary to the sense he had of his duty to *the spirit of orders* proceeding from his Royal Highness the Commander in Chief.

The most unmilitary and unwarrantable conduct of colonel Stewart concerning my late company (the *ci-devant* light infantry\*) would

\* The 43d is now made a light infantry regiment.

most fully justify my assertions against him. It was evidently designed to defeat every anxious wish and endeavor of mine to promote a spirit of emulation and a high state of discipline in my company, by never affording me that support in the duty of my company which is absolutely necessary to the existence of good order and military discipline ; and by encouraging the non-commissioned officers and privates to disregard my authority as their captain, and to disobey all my orders, with a view of affording him a feasible excuse for depriving me of that company, under the specious pretext of my appearing unfit for that service, that he might gratify an unjust partiality. Notwithstanding, from the time I had the honor of first addressing colonel Stewart as my commanding officer, in the month of March 1801, I have taken every opportunity of assuring him that I was very ambitious to command a good light infantry company, such as I was extremely desirous of making mine; also that *my first wish* was to execute every part of my duty in a manner which should meet his entire approbation ; and I have *frequently petitioned most earnestly*, for leave to

discipline and instruct my company in the light infantry exercise and manœuvres, but *always in vain*.

I am confident that had colonel Stewart supported me properly in my duty, and *encouraged a spirit of emulation* in the 43d regiment, every duty would have been executed by myself, and by my company, in an exemplary manner. I trust that declaration will not appear presumptuous when I assert that I can prove, that although my mind was filled with that abhorrence and indignation which colonel Stewart's most shameful conduct could not have failed to create, I continued those assurances, and to request permission to discipline my company, even until the month of October 1802, about which time (a few days previous to colonel Stewart's going on leave of absence) the colonel ordered major M'Kenzie to displace me from the 43d light infantry, upon the grounds of my "not appearing" to him "fit for that service."

I told colonel Stewart upon that occasion, that I had incessantly, from my first bearing a commission, felt a great ambition to command a good light infantry company, but that the most unhandsome



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treatment which I continually experienced from him concerning my company had once urged me so far as to resolve upon giving up my flank company; yet that, upon further consideration, I could not reconcile my mind passively to bear his most unjust and oppressive conduct, and pledged to him my word and honor that I would lay my grievances, in humble supplication for redress, before his Royal Highness the Commander in Chief.

I think it proper to state, that so long a procrastination of this intended measure has been principally occasioned by colonel Stewart's having gone abroad immediately afterwards, and by my having left the 43d regiment in the month of November, in an ill state of health, occasioned by a depressed and agitated mind; and not having joined the 43d regiment since that time, until the 25th of January ultimo.

In proof of my assertions of colonel Stewart's conduct relating to the discipline of my company, I will only briefly mention the following circumstance :

A short time before colonel Stewart went on leave of absence, my company formed part of a

considerable detachment of the 43d regiment which was placed under the command of major M'Kenzie, who found the light infantry in such an extraordinary relaxed state that the men appeared to treat all my orders, and the authority of my non-commissioned officers, in almost total disregard ; and that frequently, even with the greatest exertions of my serjeants and corporals, I could not get my company out of their barrack rooms under arms until nearly half an hour after the drum had beat for the parades \*. Major M'Kenzie inquired of myself the cause of such very great insubordination ; in reply I declared, that it was the effect of colonel Stewart's never having afforded me any support in the duty of my company ; but that, on the contrary, I had continually experienced such extreme disrespect from him, before the men, that they dared to treat all my orders with contempt, knowing they would be suffered to do it with impunity by the

\* I had actually given out orders to my company, in the company's order book, to turn out under arms, for a private inspection, half an hour before the beat of the warning drum, (the signal for the battalion to turn out under arms,) and even at that very time *ineffectually* used my utmost exertions to enforce obedience to that order.

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commanding officer. Major M'Kenzie repeated that report, of course, to colonel Stewart, who consequently caused me to appear in his quarters before the major ; yet the colonel did not express surprise, or even reprimand me for presuming to advance such a very serious charge to his dishonor as my commanding officer.

Should his Royal Highness the Commander in Chief think proper to cause an investigation into my grievances, I am confident it will appear that, from a mistaken zeal for the interest and credit of the 43d regiment, to preserve the appearance of an united zeal and perfect harmony reigning in the 43d regiment, I have even descended far beneath that dignity which a man ought to support in every situation in life ; and that colonel Stewart has not been actuated towards me by a zeal of promoting the good and the interest of his Majesty's service.

I have the honor to be, Sir,

Your most obedient,

And most humble servant,

NATHANIEL JEKYLL,

Capt. 43d regiment of light infantry.



*From N. Jekyll, Esq. to the Hon. Major Gen. Forbes.*

SIR,

Ashford, Feb. 5, 1804.

I HAVE the honor most humbly to address you in earnest solicitation for leave to be absent for two days from Ashford, to go to Hythe, from motives of wishing to contribute, in some small degree, to the general good of his Majesty's service.

I beg leave to inform you, that the cause of my presuming thus to step out of the usual and regular channel arises from colonel Stewart's having refused\* my most particular request even for leave to be absent from the parades of one day for that purpose.

I have the honor, &c.

N. JEKYLL.

\* See Introduction.

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*From the Hon. Major Gen. Forbes to N. Jekyll, Esq.*

Ashford, Feb. 6th, 1804.

MAJOR GENERAL FORBES has received captain Jekyll's application for leave of absence, and the accompanying representation; and in reply has to state, that during the whole course of his service, he has not met with any thing of the kind which has appeared to him altogether so improper, so unmilitary, or which could betray so total a deficiency or ignorance of the most essential principles of the military profession, as the application and representation contained in the papers which have been submitted to him by captain Jekyll.

With regard to the application, and the grounds on which it is made to major general Forbes, it would appear that captain Jekyll has the presumption to oppose his opinion on points connected with the discipline of his regiment, to that of his commanding officer, and to express a wish to be permitted to act accordingly, under the idea that major general Forbes would acquiesce in a

measure so entirely subversive of discipline.—He has therefore only to say in reply to it, that he considers it not only inadmissible, but highly censurable in every point of view ; and that the pretext of a wish to contribute to the benefit of the service, when unsanctioned by or in opposition to the commanding officer, cannot in the least degree palliate such a breach of military propriety and subordination.—In considering the representation of facts alleged by captain Jekyll in support of the charge of *scandalous* and *infamous* conduct on the part of colonel Stewart, major general Forbes has been chiefly astonished to find a charge of so serious a nature, and couched in such gross and degrading terms, brought by any officer against another, particularly a superior one, with so little matter to support or justify it, as that which is stated by captain Jekyll in his representation ; the whole of which rather tends to prove, that he has been inclined to act in opposition to the views and intentions of his commanding officer, (in one instance, perhaps, from misapprehension, viz. that of his returning to Guernsey without being relieved,) and thereby counteracted the



benefit of the service, which he pretends it is his wish to support ; and which wish, on his part, he gives as one of the motives of his representation to major general Forbes.

On a consideration of the whole matter, major general Forbes has been so strongly impressed with a conviction of the impropriety of captain Jekyll's representation, and the grounds on which he has made it, that he would have thought it his duty to lose no time in stating the circumstances attending it to general Sir David Dundas, in order that an immediate investigation might have been made, the result of which, from every thing he knows at present, he conceives would be the most severe animadversion on the conduct of captain Jekyll ; but having observed that captain J. acknowledges in the representation, that he has at times suffered much anxiety and agitation of mind on the subject of it, and conceiving it probable that the same feelings have attended his committing the statement to paper, major general Forbes has taken the trouble to reply at some length, notwithstanding his disapprobation of it, in the hope that what he has said, and a more dispas-

sionate view of the matter, will enable captain Jekyll to see, and of course to acknowledge, his error in urging his own feelings and grievances, of whatever extent and nature they may be, in excuse for such a breach of his duty, as that of resisting his commanding officer in his regulations for the interior management and benefit of his corps, and of bringing so serious and gross a charge against him on grounds so inadmissible.

If captain Jekyll persists in his desire of laying his representation before his Royal Highness the Commander in Chief, major general Forbes will think it his duty to take the necessary steps accordingly through the commander in chief of the district : but from the view he already has of the matter, he cannot flatter captain Jekyll with the probability of the result being otherwise than unfavourable to him.

J. FORBES, major general.

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*From N. Jekyll, Esq. to the Hon. Major Gen. Forbes.*

SIR,

Ashford, Feb. 7, 1804.

I HAVE the honor to acknowledge the receipt of your note of yesterday, and to beg leave most humbly to assure you, Sir, that I lament a misconception of my intents should have created those unfavourable sentiments of me which you were pleased to express.

I hope most earnestly to evince, upon every occasion, an ardent zeal for the support of military discipline, and the preservation of the highest degree of subordination ; which will obviate any supposition that I would, upon any consideration, wittingly act contrary to the spirit of any wishes of my commanding officer, which would have for a basis a zeal of promoting discipline, or the general good of the service. Nothing could have been more foreign to my ideas, than presuming to oppose my opinion, in points connected with the discipline of my regiment, to that of the commanding officer ; therefore I beg leave to assure you, Sir, that when I presumed to address



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you in solicitation of leave of absence for two days, to go and see the 52d regiment at Hythe, I was not actuated by any views of private gratification; and that I was induced to step so far out of the usual and regular channel, by a firm belief, from many circumstances, that colonel Stewart's *motives* for refusing my application for leave to be absent from the parades of one day, were *very opposite to any that are connected with the discipline of his regiment* \*.

I am confident I can most fully prove, that colonel Stewart did repeatedly give me leave, previous to my going to Jersey, to apply to lieutenant general Gordon for a short leave of absence (as soon as I had passed three or four days with my recruiting party in that island); that, in direct contradiction to the commands of his Royal Highness the Commander in Chief, colonel Stewart gave me the strongest injunctions not to enlist more than a very small limited number of men from the loyal Irish fencibles; that when lieutenant general Sir Hugh Dalrymple, hearing of my

\* See Introduction.

being about to return from Jersey, expressed surprise and disapprobation at a measure he considered as militating against the spirit of orders proceeding through him from his Royal Highness the Commander in Chief; colonel Stewart did, in a scandalous and infamous manner, unbecoming the character of an officer and a gentleman, knowingly make a false report to the commander in chief of Guernsey, that I was leaving my detachment without his permission and contrary to his particular orders, with a view of exonerating himself from the displeasure of lieutenant general Sir Hugh Dalrymple: likewise, that even when colonel Stewart had very great cause to apprehend that lieutenant general Sir Hugh Dalrymple intended to make a serious report, to my prejudice, to his Royal Highness the Commander in Chief, colonel Stewart did not render that justice which every principle of honor and equity should have urged him to—and which it was his most particular duty to have afforded an inferior officer, who should naturally look up to his commanding officer as the guardian of his honor and interest.



Although lieutenant general Sir Hugh Dalrymple did not make any report upon my return from Jersey, and was afterwards convinced that I had had the sanction of my regimental commanding officer to request general Gordon's leave of absence,—some expressions of colonel Stewart's, and a current report in the 43d regiment, yield me very strong grounds for conjecture, that the lieutenant general, through the purest possible zeal for the interest of his Majesty's service, was influenced by the misrepresentations of colonel Stewart to mention my name unfavourably to his Royal Highness the Commander in Chief.

I am well informed of several instances of colonel Stewart's *most unhandsome conduct* towards other officers ; which, added to the general tenor of his most degrading and mortifying treatment to myself in my regimental duty, I humbly conceive would justify my assertion, that no officer could feel that his honor and reputation were safe, or could be comfortable, unless he should become a *particular favorite*.

I declare upon the word and honor of an officer and a gentleman, that if the sentiments of the se-



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prior part of my brother officers \* appeared opposite to those which I now presume to express,

\* Several officers of the 43d regiment separately informed me, that major M'Kenzie (now lieutenant colonel of the 31st regiment) had signed a paper, framed by himself, expressing opposite sentiments; and (without consulting the general opinion of the corps collectively, although he had solicited and obtained the honourable major general Forbes's permission to assemble the officers for that purpose) had caused it to be signed by all the officers then present with the 43d regiment, and had forwarded it to the Commander in Chief: likewise, that they had subscribed to it, although they considered the thing in itself altogether unjust, and that the manner in which it was set on foot and conducted was both unusual and very unmilitary, from a conviction that an individual's withholding his signature would have rendered me no probable service, and might have made their own *situations exceedingly uncomfortable*—but that they felt it incumbent to apprize me of such a transaction having occurred, in order that I might guard as far as possible against the consequences they imagined it was calculated to produce to me.

The sensations under which that paragraph was written are clearly evinced in my letter to his Royal Highness the Commander in Chief, dated Nov. 12th, 1804; and how far such sentiments may have been justifiable, will perhaps forcibly appear by the Introduction, and also by several extraordinary circumstances related in my letters to the Commander in Chief, &c.

I cannot but think it surprising that I never could procure a sight of that paper, signed by the officers then present with the 43d regiment, although I particularly entreated lieutenant colonel Gordon, the Commander in Chief's secretary, for

the interest I feel for the credit and good of the 43d regiment would have prevented my addressing the statement of my grievances to you, Sir.

With a full conviction that I must seal the period of my military existence, in the event of my not substantiating my charges against colonel Stewart, I most humbly and earnestly pray that you would be pleased to lay this letter, with my statement of the 5th instant, before general Sir David Dundas, for the information of his Royal Highness the Commander in Chief.

I have the honor to be, Sir,

Your most obedient and

most humble servant,

NATH. JEKYLL,

Capt. 43d regiment of light infantry.

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a copy of it, in a letter dated October 4th, 1804; and notwithstanding I repeatedly intimated to several officers of the 43d regiment an earnest wish to be made acquainted with its contents.

The solicitude I still feel for the credit of the 43d regiment would wholly suppress the publication of this remarkable fact, did not an ardent zeal for the interest of his Majesty's service prompt me to regard it an indispensable duty to unfold the evil effects of the extreme absolute power and influence yielded to some commanding officers in the present military system.



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*From the Hon. Major Gen. Forbes to N. Jekyll, Esq.*

SIR,

Ashford, Feb. 14, 1804.

HAVING laid your representations and charge against colonel Stewart, with a copy of my answer to the first of them, before general Sir David Dundas, I have received his commands to inform you, that he entirely concurs in the sentiments expressed in my answer to your first representation; and that he considers your conduct to be not only inconsiderate, but highly reprehensible, and subversive of subordination.—Under this impression, the general has directed me to recommend to you, to lose no time in making *ample reparation and apology* to colonel Stewart, your commanding officer, for the unqualified language which you have applied to him.—Failing of which, he will deem it necessary to lay the entire correspondence before his Royal Highness the Commander in Chief.

I have only to add to the above, that if you accede to what the general has recommended, it



will be necessary that *your apology contain a complete retractation* of the charges which you have brought against your commanding officer, and *that it be expressive of your conviction of their impropriety and injustice*, as well as of your wish to obtain *his pardon* for your unguardedness in using them: and further, as the representations have been made by you to me, and as the nature of them is known probably to every officer of the 43d regiment, it is also necessary that such apology be made in *presence of the officers of the 43d regiment*, and that I should witness it.

I shall be glad to be informed of your determination as soon as convenient; and have the honor to be, Sir,

Your most obedient humble servant,

J. FORBES, Maj. Gen.

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*From N. Jekyll, Esq. to the Hon. Major Gen. Forbes.*

SIR,

Ashford, Feb. 14, 1804.

I HAVE had the honor of receiving your letter of this day, a few minutes since.

I beg leave most humbly to acknowledge, with an unfeigned gratitude, the consideration which general Sir David Dundas, and you, Sir, have condescended to evince towards me ; but with all possible deference for the sentiments the commander in chief of this district, and you, have been pleased to express, I lament that I have to acquaint you, that I cannot feel it consistent with my honor and feelings, as an officer or as a gentleman, to offer any kind of apology to colonel Stewart, or to wish to retract either of those charges which were dictated by a sense of my duty to his Majesty's service,

I am convinced by your note of the 6th instant, and by your letter of this date, that my application to you for two days' leave of absence was unmilitary ;—wherefore I beg leave to inform you, that

I am desirous of making every necessary apology or concession to yourself, for an error which I have fallen into through an excessive ardent zeal to promote, in some degree, the general good of the service. I have the honor to be, Sir,

Your most obedient and

most humble servant,

NATH: JEKYLL,

Capt. 43d light infantry.

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On the 26th of February 1804, a letter was shewn to me by the honorable major general Forbes and colonel Campbell (the assistant adjutant general for the southern district), from major general Calvert (the adjutant general to general Sir David Dundas), acknowledging the receipt of the general's letter, accompanied by the originals of the several preceding copies of letters from the honorable major general Forbes, and from myself.

And stating, that he (the adjutant general) was directed to acquaint general Sir David Dundas,



that “ His Royal Highness the Commander in  
“ Chief very highly applauded the judicious con-  
“ duct of the general, and of the honorable major  
“ general Forbes, [relating to my stated griev-  
“ ances] towards me, who appeared very little  
“ sensible of the *great forbearance* and *indulgence*  
“ *I had hitherto experienced.*”—Also to de-  
sire that the general would “ call upon me, to  
“ explain fully the matters upon which I grounded  
“ my complaints ; and to inform me, that in case  
“ of my not establishing my charges, in the event  
“ of their being laid before a general court mar-  
“ tial, the consequences would operate forcibly  
“ against myself.”

Likewise ordering general Sir David Dundas to “ intimate to colonel Stewart, that he  
“ (the colonel) had not at all suffered in the  
“ esteem and confidence of His Royal Highness  
“ the Commander in Chief, by any thing alleged  
“ to him by me\*.”

\* A copy of this letter was sent to me by the honorable major general Forbes ; but a few days afterwards, the major general’s aid-de-camp came to my lodgings, and said “ he  
“ was desired by general Forbes to beg that I would let

*From N. Jekyll, Esq. to Colonel Clinton.*

SIR,

Ashford, March 1, 1804.

I CANNOT express the most unfeigned deep regret and painful sensations occasioned in my mind by the most unpleasant subject which, at

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“ him have the copy of the adjutant general’s letter to general Sir David Dundas, as he (the major general) particularly wished to see it.”—And added, “ that either the same, or a copy, should be returned.” However, I was not permitted to have it again ; and the honorable major general Forbes afterwards informed me, that he did not conceive himself authorised to allow me to have a copy of that letter in my possession.

Upon my expressing sentiments of the most profound respect and duty towards the Commander in Chief, but declaring that I could not reconcile my mind to offer any kind of apology to colonel Stewart for having made my complaint against him ; I was commanded by the honourable major general Forbes to “ deliver in immediately, *without comment*, “ my specific charges, together with *the names of my evidences.*” And in vain did I state, that my mind was at that period so much agitated as to be wholly unfit for that arduous task ; and also implore the aid of some experienced military friends, and of counsel, to enable me to draw my charges properly.

N. J.

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this most awful crisis, urges me to presume to address this letter to you.

I have the honor to inform you, that, in obedience to an order of general Sir David Dundas, communicated yesterday by major general Forbes, to give in directly, without comment, my charges against colonel Stewart, *and the names of my evidences*, I have subscribed to two specific charges, which, I apprehend, are this day transmitted to the head quarters of the district, for the information of his Royal Highness the Commander in Chief. However, I beg leave to acquaint you, that when I first presented the statement of my regimental grievances to the honorable major general Forbes, I fully imagined I should have been required to explain, in detail, the circumstances upon which I presumed to form my several assertions and charges against colonel Stewart; and I hoped to have been enabled to consult some experienced military friends, and to have had the aid of counsel, *previous to being obliged to deliver my final specific charges.*—Wherefore I am now induced, by further consideration, to pray that I may be permitted to



*withdraw the charges* which I have preferred against colonel Stewart, at least until I can state clearly and concisely some material circumstances which I humbly consider as necessary to afford his Royal Highness the Commander in Chief, a perfect idea of my most painful and distressing situation with colonel Stewart ; and of some further matters, which, I trust, his Royal Highness will not deem improper that I should at present lay before him.—For which purpose, I most earnestly implore, that his Royal Highness the Commander in Chief would be pleased to grant me a week's leave of absence from my regiment, that I may be enabled, by the assistance of my counsel, to lay before him a full and concise statement of some facts which I am confident will remove the unfavorable sentiments his Royal Highness at present entertains to my prejudice; from the matters which have hitherto been submitted to him.

At the same time, I beg leave to assure his Royal Highness the Commander in Chief, that, upon reflecting on the probability of the services of every officer being immediately required to oppose an invading enemy, I do not wish that the

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honor and interest of so insignificant an individual as myself should cause the absence of so many officers from their posts, as would be requisite to compose a court martial, and, in evidence, to support my charges: wherefore I most cheerfully assent to yield implicitly, without appeal ever afterwards, to any measures his Royal Highness may think proper to dictate, in the event of his Royal Highness not being convinced, upon the first view of my proposed statement, that I have suffered most unbearable and unwarrantable treatment from colonel Stewart; likewise, that I am actuated purely by a zeal, untainted with any other impulse, for the good of his Majesty's service, in the measures I have adopted to obtain redress of my grievances.

From the most anxious wish which his Royal Highness has ever manifested to render the most impartial justice to every rank, (which is so proverbial throughout the army,) I should feel most perfectly confident that if his Royal Highness would most graciously condescend to take my case into his consideration with that view, my honor

and interest could not be vested in a more impartial or more equitable tribunal.

To prevent any apprehension of my appeal savoring of party spirit, I trust it will not be regarded as an impertinent digression in my praying that you would be pleased to assure his Royal Highness the Commander in Chief that I am not actuated or advised by any officer of the 43d regiment, and that there is no individual of the corps fully in my confidence upon this painful subject.

I have the honor to be, Sir,

Your most obedient,

And most humble servant,

NATH. JEKYLL,

Capt. 43d light infantry.

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(N.B. This letter was not honored with a reply.)



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*From N. Jekyll, Esq. to the Hon. Major Gen. Forbes.*

SIR,

Ashford, March 10, 1804.

I BEG leave to pray that you would be pleased to solicit for me leave of absence from his Royal Highness the Commander in Chief, for ten days. I am extremely anxious to obtain the opinion of the judge advocate general upon the first charge which I have preferred against colonel Stewart previous to the special warrant being presented for the signature of his Majesty, as, from the opinion of my counsel, I am apprehensive that the court martial might confine me so closely to the letter of the charge as to prevent my bringing forward one of the most material circumstances which I have to substantiate that charge; namely, that of colonel Stewart's having actually enjoined me to disobey the commands of his Royal Highness the Commander in Chief, by not enlisting more than a very small limited number of men from the loyal Irish fencibles, and afterwards making the most solemn declaration, upon his word and honor, that no consideration could have

induced him to have acted so contrary to the spirit of his Royal Highness's orders as to have intimated a syllable by which I could, even for a moment, have conceived that he would have suffered my leaving my recruiting party at Jersey, after lieutenant general Sir Hugh Dalrymple had said that he would report my return most seriously to his Royal Highness the Commander in Chief.

I further beg leave to assure you, Sir, that I consider it of very great moment to me that I should be enabled to procure the assistance of some of my military friends, and of a counsel conversant in courts martial, to arrange the several matters which it will be requisite for me to urge on the part of the prosecution; and that I am particularly desirous of such aid, to prevent my intruding unnecessarily on the time of a court martial any circumstances which may not appear absolutely necessary to prove my charges; and that I might not cause the absence of any officer from his post, at this most critical moment, whose evidence I can dispense with.

I have the honor to be, &c.

N. JEKYLL,

Captain 43d light infantry.

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*From Colonel Campbell, the Assistant Adjutant General  
to the Hon. Major General Forbes.*

SIR,

Head Quarters, Canterbury,

March 14, 1804.

HAVING submitted your letter of yesterday's date, with inclosure from captain Jekyll, of the 43d regiment to the general, I am directed to acquaint you that captain Jekyll's application for leave cannot be complied with.

I have the honor to be, Sir,

Your obedient and faithful servant,

(Signed) J. CAMPBELL,

Assistant Adjutant General.

P.S.—Captain Jekyll's letter is returned.

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My letter to colonel Clinton (the Commander in Chief's then secretary) not having been honored by an answer, of course I concluded that my request to withdraw the specific charges which I had subscribed to against colonel Stewart would not be acceded to; and my prayer to major gene-



ral Forbes, for leave of absence to request the opinion of the judge advocate general, &c. relating to those charges, previous to their being presented in a special warrant for the royal signature, being peremptorily refused by general Sir David Dundas, I addressed a letter to major general Calvert, the adjutant general, dated March 16, 1804, from which the following paragraphs are extracted :

“ I humbly presume most earnestly to request  
“ you would pray that his Royal Highness the  
“ Commander in Chief would graciously be  
“ pleased to grant me ten days leave of absence  
“ for the purpose of soliciting the opinion of the  
“ judge advocate general upon the subject of the  
“ charges which I have preferred against colonel  
“ Stewart, my commanding officer.”

“ From an opinion of an eminent lawyer, I am  
“ apprehensive that without some addition to my  
“ first charge, the court martial might confine  
“ my evidence so closely to the letter of it, as to  
“ prevent my bringing forward one of the most  
“ material circumstances upon which I presumed

“ to form the charge of scandalous and infamous  
“ conduct.”

“ When I was urged by general Sir David Dun-  
“ das, on the 26th of February ultimo, to deliver  
“ in forthwith my charges specifically against  
“ colonel Stewart, I entreated most earnestly a  
“ week’s leave of absence previously, and stated  
“ that my spirits were so much depressed, and  
“ my mind was so much agitated, from the de-  
“ grading treatment I daily experienced in the  
“ eyes of my regiment, bringing incessantly and  
“ most forcibly to mind the many instances of  
“ excessive mortification which I had borne  
“ through colonel Stewart’s most highly unbe-  
“ coming conduct towards me, that I was anxious  
“ to obtain the advice of some military friends,  
“ and the aid of counsel conversant in courts  
“ martial, to enable me to make the charges pro-  
“ perly, and to arrange the several matters neces-  
“ sary to substantiate them.”

“ I have made a similar request to major gene-  
“ ral Forbes, and received a letter yesterday from  
“ him, containing an answer from colonel Camp-  
“ bell (the assistant adjutant general of this dis-

“ trict), mentioning that general Sir David Dun-  
“ das declined forwarding my petition for leave to  
“ his Royal Highness. There is no intentional  
“ deficiency of the utmost deference towards the  
“ pleasure of general Sir David Dundas in my  
“ presuming to make this request to you.”

N. JEKYLL.

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*From Colonel Wynyard Deputy Adjutant General,  
to N. Jekyll, Esq.*

SIR,

Horse Guards, March 19, 1804.

I HAVE to acknowledge the receipt of your letter of the 16th instant, and to inform you the same has been referred to the general officer commanding the district.

I have the honour to be, Sir,

Your most obedient servant,

W. WYNYARD,

Deputy Adjutant General.



*From the Hon. Major Gen. Forbes to N. Jekyll, Esq.*

SIR,

Ashford, March 21, 1804.

I HAVE just received notice from colonel Campbell, by order of general Sir David Dundas, that his Royal Highness the Commander in Chief has been pleased to grant to you one week's leave of absence, which the general desires may commence from this day, and that you return without fail to the quarters of your regiment on the 28th instant.

I have the honour to be, Sir,

Your obedient humble servant,

J. FORBES,

Major General.

*From Colonel Wynyard, Deputy Adjutant General, to  
N. Jekyll, Esq.*

SIR,

Horse Guards, March 26, 1804.

I have to acknowledge the receipt of your letter of this day's date, inclosing a paper containing


amended charges against colonel Stewart of the 43d regiment; and I am directed to inform you, that the charges transmitted through general Sir David Dundas have been inserted\* in a special warrant for his Majesty's signature, which of course will go to trial by a general court martial.

I have the honor to be, Sir,

Your humble servant,

W. WYNYARD, Dep. Adj. Gen.

\* Extract of a Letter from a Friend, dated April 10th 1804:—" I applied to the deputy judge advocate general, " who informed me that the warrant was not yet in a state " for the royal signature, nor could he say at what time it " would."



On the 26th of May I received the following copy of the general orders.

(Copy.)

G. O.

Canterbury, May 25th, 1804.

IN consequence of his Majesty's warrant having been received, constituting major general Moore president of a general court martial for the trial of colonel Stewart of the 43d regiment, on charges therein specified, the said court martial will assemble at Hythe barracks, on Tuesday the 5th of June, at 11 o'clock A. M.

Detail for the general court martial, of which major general Moore is president

	Field Offis.	Cpts.
Major general Staveley's brigade -	2	1
Major general Moore's ditto -	5	3
Major general Cartwright's do. -	2	1
	—	—
	9	5

Captain Munro, royal artillery, deputy judge advocate.

The members' names, dates of commissions, and lists of evidences, to be prepared for the deputy judge advocate.

(Signed) J. CAMPBELL, Adj. Gen.



*From Captain Munro to N. Jekyll, Esq.*

SIR,

Canterbury, May 30, 1804.

I BEG to inform you, that I have summoned lieutenant Ross as a witness in support of the charges you have preferred against lieutenant colonel Stewart. Lieutenant Ross will be at Hythe on Tuesday the 5th of June, the day appointed for the assembling of the general court martial. If there are any other witnesses to summon, and you have not already done so\*, it will be requisite for you to transmit me their names by return of post. I shall be at Hythe on Monday the 4th of June, early in the morning.

I have the honor to be, Sir,

Your humble servant,

ALEX. MUNRO, Capt. Royal Art.  
Dep. Judge Advocate.

\* Persons unacquainted with military affairs might suppose, from this paragraph, that I had power to order the attendance of such witnesses as I wished to call on in support of the prosecution:—but the fact is, I had none whatever, nor could any individual have left his post at a requisition from myself. The attendance of evidences is always obtained by a special order through the adjutant general or through the judge advocate general.

## MEMORANDUM.

Upon receiving this letter, I was apprehensive that the witnesses whose names I had been so peremptorily commanded to give in with my specific charges, in the beginning of the preceding month of March, had not been summoned; I therefore obtained leave to go and inquire from the deputy judge advocate, captain Munro, whether he had received any intimation of their being directed to attend the court martial. I found from captain Munro, that (notwithstanding I had been obliged to give in the names of my witnesses at the time of subscribing to my charges, which I believe is rather unusual, and had been told by the honourable major general Forbes, that whether a court martial would be appointed to investigate my complaints, would in all probability depend on the convenience of assembling the evidences whom I should call upon) only one of them, lieutenant Ross, had been ordered to attend the trial of colonel Stewart; who merely happened to have been detained in England at my special application to the adjutant general, upon

receiving intelligence of his being ordered upon a foreign station. By that surprising omission, I lost the testimony of two very material evidences, as will appear by my statement to lieutenant colonel Gordon of 6th of November last, and by my letter to the Commander in Chief, of the 12th following; likewise by the proceedings of the court martial in the evidence of Mr. Havelock.

N. J.



At a general court martial holden by virtue of a warrant from his Majesty, at Sandgate, on the 25th day of June 1804, were present,

Major general JOHN MOORE, President,

MEMBERS.

Lieut. Col. JOHN DORIEN, royal regiment of horse guards ;  
Lieut. Col. HENRY ESPINASSE, 4th (or King's own) foot ;  
Lieut. Col. THOMAS BROWN, 59th regiment ;  
Lieut. Col. JOHN STEWART, 52d regiment ;  
Major HENRY BROWN, 14th light dragoons ;  
Major RICHARD PIGOT, 14th light dragoons  
Major ALEXANDER M'LEOD, 59th regiment ;  
Major WARDEN SERGISON, royal regiment of horse guards ;  
Major SAMUEL DALES, 4th (or King's own) foot ;  
Captain THOMAS HANKIN, 2d. or royal N. B. dragoons ;  
Captain THOMAS DOUCE, 4th (or King's own) foot ;  
Captain THOMAS SMITH, 14th light dragoons ;  
Captain EDMUND FAUNCE, 4th (or King's own) foot ;  
Captain John ROSS, 95th regiment (rifle corps) ;

DEPUTY JUDGE ADVOCATE

Captain ALEXANDER MUNRO, royal artillery.

The president and members of the court being duly sworn, and the deputy judge advocate being also sworn, the court proceeded on the trial of  
**COLONEL RICHARD STEWART,**  
of the 43d (or Monmouthshire) regiment of foot, against whom the following charges were exhibited: viz.

FIRST CHARGE.

“ Scandalous and infamous conduct, unbecom-  
“ ing the character of an officer and a gen-  
“ tleman, in wittingly making a false report  
“ to lieutenant general Sir Hugh Dalrymple,  
“ on or about the 1st of March 1802, in  
“ the island of Guernsey, purporting that  
“ he (colonel Stewart) had not granted cap-  
“ tain Jekyll any permission to be absent  
“ from his recruiting party then stationed  
“ in the island of Jersey, notwithstanding he  
“ had given captain Jekyll leave on the 22d  
“ of the antecedent month, to solicit leave  
“ of absence, from his detachment, of lieute-  
“ nant general Gordon as soon as he had  
“ passed three or four days with it in Jersey;

“ thereby having caused captain Jekyll to  
“ have been put under an arrest, and to have  
“ suffered, undeservedly, the most severe  
“ and painful reprimand and humiliating  
“ animadversions.”

SECOND CHARGE.

“ Repeated most disrespectful and degrading  
“ treatment in the presence of the company,  
“ and unwarrantable excessive abuse to cap-  
“ tain Jekyll, in the month of September  
“ 1802, in the island of Guernsey, and not  
“ having afforded captain Jekyll that support  
“ in his duty which is absolutely necessary  
“ for the preservation of good order and  
“ military discipline.”

To the foregoing charges Colonel RICHARD STEWART pleadeth NOT GUILTY.

Captain NATHANIEL JEKYLL, of the 43d regiment, appeared before the Court as prosecutor, and, after being duly sworn, produced the following orders from the regimental orderly book :



R. A. O.

Amhurst Barracks, Feb. 22, 1802.

A detachment, consisting of one captain, two serjeants, one drummer, and one private, will embark for Jersey on board the packet now in the harbour. Captain Jekyll, who is for the above duty, will report himself upon his arrival there to lieutenant general Gordon, and follow his further directions.

R. M. O.

Amhurst Barracks, Feb. 23, 1802.

A subaltern is added to the party under captain Jekyll, and will embark with them accordingly: for this duty lieutenant Dumoulin.

R. A. O.

Amhurst Barracks, Feb. 23, 1802.

Lieutenant Delisle having obtained permission to take lieutenant Dumoulin's detachment for him ensign Champ will be for piquet this evening.

Major JOHN CAMERON, of the 43d regiment, came before the Court as a witness for the prosecution, and after being duly sworn, was asked the following questions by desire of the prosecutor:

Q. Were you present with the 43d regiment in Guernsey, in the month of February 1802?

A. I was.

Q. Was you present on the 22d of that month, in the mess room of the regiment, when colonel Stewart ordered me with a party to recruit at Jersey?

A. I do not recollect the date, but I was present in the mess room during some conversation that passed between you and colonel Stewart subsequent to the order being given out for your going to Jersey.

The witness, on being desired to relate such part of the conversation as he heard in the mess room, deposed, that he heard captain Jekyll was shortly to return from Jersey on colonel Stewart's getting another officer to relieve him.

Q. Did you hear colonel Stewart say that I was to be relieved before I returned, or was that only your own impression?

A. I did not hear those very words; but the purport, as I before said, was, that you were to

return when colonel Stewart got another officer to relieve you.

Q. Did colonel Stewart say that he was aware of the object of the recruiting party in going to Jersey was to recruit from the loyal Irish fencibles ?

A. No ; but I knew that was the object.

Q. Among the persons present in the mess room on the 22d, do you recollect Mr. Salmon's being there ?

A. Yes, he was.

The following questions were asked the witness by desire of colonel Richard Stewart :

Q. Did you understand, from what passed in the mess room, that my sending another officer to relieve captain Jekyll was the *only condition* on which captain Jekyll was to return ?

A. *I don't recollect.*

The following questions were put to the witness by the Court :

Q. Did you conceive from what you heard that captain Jekyll had authority from colonel Stewart to return from Jersey as soon as he had settled his party, or that he (colonel Stewart) was



only intimating to captain Jekyll that he was to be recalled as soon as colonel Stewart got an officer to relieve him?

A. I conceived that captain Jekyll had not authority to return until he was relieved.

Q. Do you remember colonel Stewart giving permission to captain Jekyll to ask general Gordon for leave to return from Jersey, or saying any thing on that subject?

A. No, I do not.

THOMAS HAVELOCK, Esq. paymaster of the 43d regiment, a witness for the prosecution, being duly sworn, deposed, that on the morning of the 23d of February 1802, when in company with Mr. Salmon, late surgeon of the 43d regiment, in Amhurst Barracks, he saw captain Jekyll address himself to colonel Stewart on the parade; they had some conversation respecting captain Jekyll's going to Jersey; it seemed that captain Jekyll wished not to go on the duty he was ordered on; the witness then heard colonel Stewart say, that captain Jekyll must go to Jersey

with his party; *that after establishing his party he might return.*

The following questions were asked the witness by desire of colonel Richard Stewart:

Q. Where did the conversation pass; and did you hear the whole or only a part of the conversation?

A. The conversation passed in the square of Amhurst Barracks; I did not hear the whole of the conversation.

Q. Did you hear me say any thing of an intention to send another officer to relieve captain Jekyll?

A. I did not hear you say any thing to that effect.

Q. Did you ever understand that I was to send another officer to relieve captain Jekyll?

A. Some days after the conversation had passed, captain Hull informed me that he was ordered to Jersey to relieve captain Jekyll.

Q. In the conversation alluded to was there any mention made of general Gordon's name?

A. None whatever.

The witness was asked the following questions by the Court:

Q. Might not much more have passed in the conversation alluded to be between colonel Stewart and captain Jekyll than what you heard?

A. There was certainly a great deal of conversation between the colonel and captain Jekyll that I did not hear; I will relate what I know.—I was walking backwards and forwards in the barrack yard with Mr. Salmon, waiting to speak to captain Jekyll, or to deliver him a bill which colonel Stewart had ordered me to draw; and observing that their conversation was drawing to a close, I went nearer, in order to speak to captain Jekyll; at that moment I heard the conversation I have stated. Colonel Stewart was at that moment speaking louder than usual, which was the reason I heard the conversation.

Q. Do you remember having made an observation to Mr. Salmon, *after* captain Jekyll was put in arrest, that you particularly recollected the circumstances of his having colonel Stewart's leave?



*A. We both conceived captain Jekyll had colonel Stewart's leave, from the tenor of that part of the conversation we heard.*

Major ROBERT BARCLAY, of the 52d regiment, appeared before the Court as a witness for the prosecution, and after being duly sworn, deposed, that he was brigade major in the island of Guernsey at the period captain Jekyll was ordered to Jersey to enlist men from the loyal Irish fencibles. He (captain Jekyll) returned without Sir Hugh Dalrymple's permission, and was put under an arrest; to the best of his recollection, captain Jekyll was reprimanded and taken out of arrest, on its being admitted between colonel Stewart and captain Jekyll that some mistake might have existed. Captain Jekyll was then sent back to Jersey.

The following questions were asked the witness by desire of captain Jekyll :

Q. Were you present at Sir Hugh Dalrymple's when I was reprimanded for returning from Jersey without leave?

A. I cannot positively say—I think it very probable I was.

Q. Did I, previous to my going to Jersey, tell you that I had colonel Stewart's authority, after I had fixed my party and staid there a few days, to apply to lieutenant general Gordon for leave to return, and that I was coming back in the course of a week?

A. I do not recollect having any particular conversation with captain Jekyll; but I understood that on account of his wife's ill health it was the intention to have him relieved as soon as possible.

Q. Have you any recollection of meeting me upon my landing at Guernsey, and mentioning to me that I was ordered under an arrest by Sir Hugh Dalrymple, in consequence of colonel Stewart's having reported to him that I was leaving my detachment without his (colonel Stewart's) leave?

A. I do recollect meeting you on the pier, and telling you that you was to be put in arrest, or putting you in arrest myself, I don't recollect

which, for returning from Jersey without leave.

Q. Do you remember my replying that I was *perfectly easy* on that subject, for that I had not only had *colonel Stewart's leave*, but likewise that of lieutenant general Gordon, who commanded in Jersey ?

A. *To the best of my recollection you did say that.*

At three o'clock the Court adjourned till to-morrow.

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*Tuesday, June 26, 1804.*

The Court met pursuant to adjournment.

President and members as before.

Lieutenant colonel BURGH LEIGHTON, of the 4th dragoons, a witness for the prosecution, being duly sworn, was asked the following questions by desire of the prosecutor :

Q. Were you present at Sir Hugh Dalrymple's



when I was reprimanded by him for returning from Jersey, under an impression that I had quit-  
ted it without leave in March 1802 ?

A. Yes, I was.

Q. Relate to the Court what passed at the time.

A. I recollect that captain Jekyll left his party at Jersey without being relieved, and returned to Guernsey ; that the general was of course angry, reprimanded him, and, I believe, put him under an arrest ; upon a further explanation, but I cannot now recollect, both colonel Stewart and captain Jekyll allowed that there might have been a mistake about the leave for captain Jekyll's returning from Jersey to the island of Guernsey ; upon which Sir Hugh Dalrymple released captain Jekyll, to the best of my recollection, directly from his arrest. I understood that colonel Stewart did not give captain Jekyll leave to come from what colonel Stewart said.

Q. Can you state the terms in which I was reprimanded?

A. No, I cannot.

Questions from colonel Stewart to the witness.

Q. Did captain Jekyll assert that he had my leave to return?

A. Yes, he did.

Q. Did not captain Jekyll, in the presence of Sir Hugh Dalrymple and myself, acknowledge that he might have mistaken my meaning\*?

A. They both admitted that captain Jekyll might have mistaken colonel Stewart's meaning.

Q. When you state that I acknowledged that captain Jekyll might have mistaken my meaning, do you mean to state that I consented to accept captain Jekyll's apology "that he (captain Jekyll) might have mistaken my instructions?"

A. Yes, I did look upon it in that light.

Q. Was captain Jekyll sent back to Jersey by Sir Hugh Dalrymple?

A. Yes, I believe he was.

Lieutenant GEORGE CHARLES ROSS, of the royal engineers, a witness for the prosecution,

\* See statement addressed to lieutenant colonel Gordon, dated Nov. 6, 1804.

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being duly sworn, depose to the following questions, which were asked him by desire of captain Jekyll :

Q. Do you recollect conveying any message from lieutenant general Sir Hugh Dalrymple to me in the months of April or May 1802 ?

A. No, I do not.

Q. Have you no recollection of coming to me with an intimation from lieutenant general Sir Hugh Dalrymple, purporting that he had not reported my returning from Jersey to his Royal Highness the Commander in Chief, and of his being satisfied that I had had colonel Stewart's leave to return ?

A. I really do not recollect it.

Captain NATHANIEL JEKYLL stated as he found upon an examination of the witnesses to the second charge they did not support the testimony they first gave, that he should not detain the Court to hear evidence he did not think sufficiently decisive.

The prosecution here closed.



*DEFENCE.*

Colonel RICHARD STEWART, of the 43d regiment, addressed the Court in his defence as follows : viz.

In consequence of the proceedings which captain Jekyll has thought fit to institute against me, the necessity of vindicating my own character has been imposed upon me, and I am now called upon to perform a duty which, under any circumstances, is of a painful nature.

In repelling those charges which the prosecutor has endeavoured to substantiate by the evidence which he has produced, I conceive that I shall act most respectfully towards the Court by confining my observations to those matters which have been made the subject of investigation in this place, and shall therefore abstain from comment on the general conduct of captain Jekyll since I have had the honour to command the 43d regiment.

The Court cannot fail to have observed the difficulties under which I have laboured from being called upon to prove the particulars of transactions

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which happened at the distance of considerably more than two years ; and for the delay in the commencement of this prosecution captain Jekyll has not been able, neither has he attempted, to assign any adequate reason.

If my conduct had been of the most unbecoming and flagrant nature, it could not have been described in expressions more harsh and vindictive than those which the prosecutor has adopted in framing the first charge ; and the Court will not omit to contrast the force of the charge with the feebleness of the evidence adduced in support of it.

The circumstances which led to the first charge originated in my having, in the month of February 1802, directed captain Jekyll to proceed with a detachment to Jersey for the purpose of recruiting. Those directions were given by me in consequence of an order I had received from Sir Hugh Dalrymple, and *captain Jekyll was selected because he was the first officer for that duty.* Captain Jekyll represented to me at the time how much he was distressed at being obliged to quit

Guernsey, as he must necessarily leave Mrs. Jekyll, who was then confined by a dangerous illness. *Humanity dictated to me the propriety of doing what was in my power to alleviate the sufferings of captain Jekyll, and I was induced to assure him that as soon as I could find another officer to relieve him he should be recalled.* Under these circumstances captain Jekyll sailed for Jersey; and having after a short interval returned without my authority, *he was involved in those humiliating scenes of which he has complained;* and you have been involved in the necessity of investigating, whether captain Jekyll has evidence sufficient to satisfy your minds, that previous to his sailing for Jersey he had my permission, on settling his party, to return; or whether, on the contrary, even the evidence of the prosecutor is not calculated to convince you that nothing more than the hope of being relieved when an opportunity offered, was held out to him.

I am charged with having given captain Jekyll leave to apply to general Gordon for permission to return to Guernsey, and with having made a false



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report on this subject to Sir Hugh Dalrymple. The first evidence which captain Jekyll has called to support this charge is major Cameron; the result of whose evidence is, that he overheard part of a conversation between me and captain Jekyll, the purport of which was, that captain Jekyll was to return when I could find another officer to relieve him.

Major Cameron does not recollect one single expression which is calculated to support the charge; and, on the contrary, all that he has deposed *corroborates my statement in the most direct and pointed terms\**.

The next evidence is Mr. Havelock the paymaster, who has deposed, that when walking backward and forwards in the barrack yard, waiting to speak to captain Jekyll, he overheard a small part of a long conversation between me and captain Jekyll, which was in substance, that captain Jekyll wished not to go on the service he was ordered upon; and Mr. Havelock states, that he

\* See comments on the defence.

then heard me say that captain Jekyll must go to Jersey with his party, and that, after establishing his party, he might return.

It is material to observe in the first place, that this conversation passed in the open air, while the witness was at some distance from the parties; that he heard merely a few words of a long conversation, without at all knowing what had preceded them:—but when Mr. Havelock assigns as his reason why he heard one part and not the whole of the conversation, he states that 'I appeared warm, and was speaking louder than usual:—now it is very material to attend to this fact—for if I appeared warm, what could have excited that warmth but something that had occurred in the conversation with captain Jekyll? and as it appears that the subject of our conversation was captain Jekyll's going to Jersey, and that he appeared unwilling to go on that duty, what can the Court infer, but that captain Jekyll was pressing in an improper manner to be excused from that service.

But if I had granted him the permission which Mr. Havelock has stated, was it not rendering the most acceptable service to captain Jekyll ? and all that was likely to have fallen from him under such circumstances must have been of a conciliatory nature, and not at all calculated to excite warmth on my part.

It is hardly necessary to observe, that it is not surprising that Mr. Havelock, who only heard the few words which he has given in evidence, and who knows nothing else of the transaction, should have conceived that I had granted permission to captain Jekyll to return ; but the court will at the same time recollect how easy it was for Mr. Havelock to misinterpret or misunderstand a few words, overheard in such a manner and under such circumstances.

The next evidence was major Barclay, whose recollection of the circumstances was so imperfect, that he could not speak positively to any material point. It appears however from his evidence, that captain Jekyll took an early opportunity of stating the grounds on which he intended



to defend his having returned to Guernsey ; but captain Jekyll's having at that time made the same declaration which he has repeated in the charge, is no evidence whatever of the fact, more especially as the assertion which he then made was the only ground on which he could justify the step he had taken.

Lieutenant colonel Leighton has deposed to the facts of captain Jekyll's having returned without being relieved ; of his being put under arrest ; of his being reprimanded, and sent back to Jersey. Lieutenant colonel Leighton has also stated, that captain Jekyll asserted that he had my leave to return ; but afterwards acknowledged, that he might have mistaken my meaning ; and that I having acquiesced in this apology, captain Jekyll was released

Lieutenant Ross knew nothing of the circumstances of the transaction.

Upon this evidence the Court are to determine, whether captain Jekyll has proved, that, previous to his going to Jersey, I gave him leave to return on settling his party. The only evidence which

gives the slightest support to the charge, is the testimony of Mr. Havelock ; and in deliberating on that evidence, the Court will not only recollect the observation I have before made on this part, but will also contrast it with the evidence of major Cameron, who distinctly understood from what he heard\*, that captain Jekyll was not to return until he was relieved by another officer ; with the evidence of lieutenant colonel Leighton, who states, that the very question now in dispute, was at the time canvassed before Sir Hugh Dalrymple, whose opinion is unequivocally proved by the steps he took :—by Sir Hugh's orders, captain Jekyll was put under arrest, from which he was released *on my accepting the acknowledgement which was made by capt. Jekyll* ; and Sir Hugh still further marked his opinion of the transaction, by reprimanding captain Jekyll, *and by sending him back to Jersey* ; although captain Hull, who had been appointed to relieve captain Jekyll, but had been prevented by an accident from sailing

\* See comments on the defence.

previous to captain Jekyll's return, was willing to have gone in his place.

Captain Hull has not attended here to prove this transaction, because he is gone to Malta as aid-de-camp to general Drummond; but the fact that captain Hull was to have relieved captain Jekyll, is now upon the proceedings in the evidence of Mr. Havelock, who says, that a few days after the conversation to which he alluded, captain Hull informed him that he was ordered to relieve captain Jekyll.

From an anxious desire to save the time of the Court, I have not called any other witnesses to prove this fact; and with those observations I submit this case, and what is still more valuable—my character, which in the course of twenty-nine years' service has never before been impeached.

At three o'clock the Court adjourned.



*Wednesday, June 27th, 1804.*

The Court met pursuant to adjournment.

President and members as before

### OPINION.

The Court, having maturely weighed and considered the evidence produced in support of the following charges; viz. “ Scandalous and infamous conduct, unbecoming the character of an officer and a gentlemen, in wittingly making a false report to lieutenant general Sir Hugh Dalrymple, on or about the 1st day of March 1802, in the island of Guernsey; purporting that he (colonel Stewart) had not granted captain Jekyll any permission to be absent from his recruiting party then stationed in the island of Jersey, notwithstanding he had given captain Jekyll leave, on the 22d of the antecedent month, to solicit leave of absence, from his detachment, of lieutenant general Gordon, as soon as he had passed three or four days with it in Jersey; thereby having caused captain Jekyll

“ to have been put under an arrest, and to have  
“ suffered undeservedly the most severe and pain-  
“ ful reprimand, and very humiliating animad-  
“ versions :”—2dly, “ Repeated most disrespectful  
“ and degrading treatment in the presence of the  
“ company, and unwarrantable excessive abuse to  
“ captain Jekyll, in the month of September  
“ 1802, in the island of Guernsey ; and not hav-  
“ ing afforded captain Jekyll that support in his  
“ duty, which is absolutely necessary for the pre-  
“ servation of good order and military discipline :”  
exhibited against colonel Richard Stewart, of  
the 43d (or Monmouthshire) regiment, toge-  
ther with what he hath offered in his defence,—  
are of opinion, that he the aforesaid colonel Ri-  
chard Stewart is not guilty of either of the  
charges, and the Court do most fully and most ho-  
norably acquit him.

The Court cannot pass without observation the  
malicious and groundless accusations that have  
been produced, by captain Jekyll, against an officer  
whose character has, during a long period of ser-  
vice, been so irreproachable as colonel Stewart’s ;

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and the Court do unanimously declare, that the conduct of captain Jekyll, in endeavouring to falsely calumniate the character of his commanding officer, is most highly injurious to the good of the service.

JOHN MOORE, maj. gen. president.

A true copy,

J. A. OLDHAM.

Judge Advocate General's Office,

28th August. 1804.

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*From N. Jekyll, Esq. to Colonel Clinton.*

SIR, Shorncliffe Camp, July 2, 1804.

THE very peculiar and most awful situation in which I stand at this moment, I most humbly trust, will be deemed an apology for my presuming to request you would do me the honor of praying, that his Royal Highness the Commander in Chief would most graciously be pleased to suspend his judgment upon my conduct relating to the general court martial held on colonel Stewart, until I may have been indulged with an opportunity of obtaining some decisive testimony, and



some very important circumstantial evidence; which I doubt not I might be enabled to procure from very respectable channels: and which, I am strongly induced to hope, would exonerate me in the mind of his Royal Highness, of having alleged such serious charges against colonel Stewart upon so very slight a foundation as that which my evidence afforded on the trial; or that would, at least, operate as a very powerful palliative of the extreme impropriety I might be found by his Royal Highness to have committed, in preferring those charges without having actually ascertained the evidence I could find in support of them.

I have no view or intent of criminating colonel Stewart, by any thing I might now or henceforward urge in my own defence: indeed, I conceived it a point of honor, for the good of the service, and towards myself, to evince that I retained no malice, to embrace the first opportunity of proclaiming colonel Stewart's innocence\*, as soon

\* By the spirit of our glorious constitution, when a man is tried, and *not found guilty* of the crime of which he was accused, he is considered as entirely innocent.

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as I experienced the deficiency of the evidence I had brought forward against him.

I most humbly beg leave (to assuage for the present moment the indignation which I am sensible the court martial cannot but excite in the breast of the Commander in Chief) to inform you, that the extreme *want of recollection* on the part of those officers who composed Sir Hugh Dalrymple's staff, drew forth repeated expressions of great surprise from the president, and from almost every member of the court martial; likewise, that my not having made myself certain upon the evidence I expected major Cameron and Mr. Havelock would have given, arose from an anxious zeal for the credit and interest of the regiment; that I might affirm before the court, that I was not influenced by any officer of the corps; and that no individual of them was aware of the shape in which I intended to put any question to him, with a view of obviating the possibility of my appeal to a court martial bearing the slightest shade of party spirit, and of any other officer's suffering prejudice through my fate.

I most humbly hope that his Royal Highness will be pleased to take into his most gracious consideration the circumstance of my having acted entirely without advisers, under an ineffable agitation of mind, created by a never-ceasing impression that I was labouring under an almost indelible obloquy from the degradations I imagined myself to have suffered; and not having reflected, that events which had caused so much pain to myself would have been so slightly imprinted on those who had witnessed my humiliations.

I have the honor to be, Sir,

Your most obedient and

most humble servant,

NATH. JEKYLL,

Capt. 43d. regiment.



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*From Colonel Clinton to N. Jekyll, Esq.*

SIR,

Horse Guards, 4th July 1804.

I HAVE to acknowledge the receipt of your letter, which I shall lay before the Commander in Chief:—at the same time I beg to observe to you, that upon the subject of it you should have addressed yourself to general Sir David Dundas.

I am, Sir,

Your obedient servant,

H. H. CLINTON.

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(Copy.)

G. O. Head Quarters, Canterbury, 8th July 1804.

THE letter which follows, from the judge advocate general to his Royal Highness the Commander in Chief, is to be inserted in the orderly books of each regiment throughout the southern district.

J. CAMPBELL, A. A. Gen.

*Major Gen. Moore,**&c. &c. &c.*

(Copy.)

SIR, Judge Adv. Gen. Office, 7th July 1804.

HAVING had the honor of laying before the King the copy of a general court martial held at Sandgate in Kent, on the 25th of June last, where colonel Richard Stewart of the 43d (or Monmouthshire) regiment of foot, was tried upon the following charges preferred against him by captain Nathaniel Jekyll of the same regiment, viz.

1st, “ Scandalous and infamous conduct, un-  
“ becoming the character of an officer and a gen-  
“ tleman, in wittingly making a false report to  
“ lieutenant general Sir Hugh Dalrymple, on or  
“ about the 1st of March 1802, in the island of  
“ Guernsey; purporting that he (colonel Stew-  
“ art) had not granted captain Jekyll any permis-  
“ son to be absent from his recruiting party in  
“ the island of Jersey, notwithstanding he had  
“ given captain Jekyll leave, on the 22d of the  
“ antecedent month, to solicit leave of absence,  
“ from his detachment, of lieutenant general  
“ Gordon, as soon as he had passed three or

“ four days with it in Jersey; thereby having  
“ caused captain Jekyll to be put under an arrest,  
“ and to have suffered undeservedly the most  
“ severe and painful reprimand, and very humili-  
“ ating animadversions :”

“ 2dly, Repeated most disrespectful and de-  
“ grading treatment in the presence of the com-  
“ pany, and unwarrantable excessive abuse to  
“ captain Jekyll, in the month of September 1802,  
“ in the island of Guernsey; and not having af-  
“ forded captain Jekyll that support in his duty,  
“ which is absolutely necessary for the preserva-  
“ tion of good order and military discipline :”—

I am commanded to acquaint your Royal High-  
ness, that his Majesty has entirely approved the  
opinion of the court martial, which has most fully  
and most honorably acquitted the said colonel  
Richard Stewart on both charges, and which has  
superadded the following remark with regard to  
the prosecutor; viz. “ The Court cannot pass  
“ without observation the malicious and ground-  
“ less accusations that have been produced, by  
“ captain Jekyll, against an officer whose character



“ has, during a long period of service, been so  
“ irreproachable as colonel Stewart’s ; and the  
“ Court do unanimously declare, that the con-  
“ duct of captain Jekyll, in endeavouring falsely  
“ to calumniate the character of his commanding  
“ officer, is highly injurious to the good of the ser-  
“ vice.”

And I am further to acquaint your Royal Highness, that his Majesty has thought fit to direct, that it be intimated to the said captain Nathaniel Jekyll, that his Majesty has no farther occasion for his service as a captain in the 43d (or Monmouthshire) regiment.

I have the honour to be, with dutiful respect,

Your Royal Highness’s

most obedient and

most humble servant,

(Signed) CHARLES MORGAN.

True Copy,

J. CAMPBELL, A. Adj. Gen.

*To his Royal Highness the  
Duke of York, Field Mar-  
shall, Commander in Chief of  
his Majesty’s Forces.*

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To Field Marshal his Royal Highness the Duke  
of York, Commander in Chief of his Majesty's  
Forces, &c. &c. &c.

The MEMORIAL of Nath. Jekyll, Esq. (late  
Captain of his Majesty's 43d (or Monmouth-  
shire) Regiment of Light Infantry,

Sheweth,

That the memorialist was in Barbadoes in the  
year 1794, under the protection of the late gover-  
nor Parry ; that an expedition being formed against  
Martinique, St Lucia, and Guadaloupe, he volun-  
teered his services, and was attached to the light  
infantry of the 9th regiment, in a battalion of light  
infantry, under the immediate command of the  
present Sir Eyre Coote ; that his conduct at the  
reduction of those islands, induced lord Grey of  
Howick to appoint him to an ensigncy, and very  
shortly afterwards to a lieutenancy ; and that,  
when he had only served one year, his Royal  
Highness the Commander in Chief was graciously  
pleased, from the favorable representation made to

him of the memorialist, to sanction his purchasing a company in the 43d regiment; which he trusts he has retained until this period without the slightest shadow of imputation to his character either as an officer or as a gentleman:

That it is very opposite to the wish or intent of the memorialist to attach any undue censure to the conduct of colonel Stewart;—indeed he acknowledges, that he considers he might have been induced to make use of warmer expressions than perhaps either propriety, or colonel Stewart's situation, ought to have permitted;—yet he most humbly prays, that his Royal Highness the Commander in Chief, with his usual benevolence, will make some allowance for the feelings of an officer, most deeply wounded by public, and what he conceived undeserved reproaches, occasioned by the representations of colonel Stewart; most particularly by the truly degrading appellation of “that skulking captain!” an epithet applied to him by lieutenant general Sir Hugh Dalrymple upon the garrison parade, in face of three regiments under arms, in consequence of an erroneous



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idea of his having left his recruiting party without leave ; which the memorialist believes must appear, by the testimony of Mr. Havelock upon the court martial, not to have been the case : the Commander in Chief will most forcibly feel what must have been the sensations of an officer, occasioned by such humiliating expressions, especially when conscious of their being undeserved :

That the memorialist most humbly prays, that his Royal Highness will take into his most gracious consideration, that although of an old and respectable family, and happily connected by marriage, his almost entire dependence, for the support of himself and that of his wife, was in his profession ; and likewise the circumstances of his having acted entirely without advisers, either military or legal ; and that, knowing the consequences which had most justly ensued from cabals against commanding officers, he so far carried the fear of committing any other gentleman of the regiment, that he studiously shunned having any communication with any one upon the subject, and avoided examining any officer as to the nature

and extent of his evidence ; from whence it arose, that many circumstances, which might have been brought to recollection by a conversation upon the subject, were totally lost in evidence ; and which, although they might have been insufficient to have established the charges to the satisfaction of the court martial, might very satisfactorily have accounted for those feelings which induced him to hazard their production :

And also that, in addition to the conduct which recommended the memorialist to the purchase of his late company, he has been honored with several communications of his Royal Highness's approbation of his military zeal, in terms highly flattering to him ; particularly in a recent instance, for a very humble proof of assiduous exertion to qualify himself for arduous duties, which he had most anxiously hoped would have enabled him to have shewn himself not unworthy of the confidence reposed in him by the most gracious Sovereign, and of the honor conferred on him by his Royal Highness the Commander in Chief :

And further, the memorialist most humbly

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prays that his Royal Highness the Commander in Chief will not, for one instance of imprudence, the effect of a too ardent mind, a nervous and continued dejection of spirits arising from supposed injuries, at a very early period of life abandon all his prospects in a profession in which his whole views of ambition were centred, to utter and disgraceful ruin (which he hopes his Royal Highness will consider as not altogether merited, when the foregoing provocations, not brought forward upon the trial, are taken into the scale); but that the Commander in Chief would still so far extend his fostering protection to the memorialist, as to pray that his Majesty would most graciously be pleased to reinstate him in some other regiment of the line :

And the memorialist shall ever pray, &c.

NATHANIEL JEKYLL.

Welbeck-street, August 6th, 1804.



*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,

Horse Guards, 7th August 1804.

I HAVE not failed to lay before the Commander in Chief your letter and memorial of yesterday's date; and am directed to acquaint you, that, from the circumstances under which you have been removed from the service, his Royal Highness cannot recommend to his Majesty that you should be reinstated.

I have the honor to be, Sir,

Your most obedient servant,

J. W. GORDON.

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*From N. Jekyll, Esq. to Lieutenant Colonel Gordon.*

SIR,

Welbeck-street, Aug. 9, 1804.

I HAVE the honor to acknowledge your letter of the 7th instant, which I have received this morning, in answer to my memorial.

I now, Sir, humbly beg leave to entreat you would do me the honor to pray that his Royal

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Highness the Commander in Chief would most graciously be pleased to suffer me to lay before him some decisive and very essential circumstantial testimony, which I most humbly hope and believe might fully exonerate my character from the odious imputation of having been actuated by malice or falsehood in preferring my charges against colonel Stewart of the 43d regiment ; and which I think cannot fail to evince, that under the impressions it must be obvious I could not but have had of the circumstances upon which my charges were grounded, my conduct will appear to have been influenced, in every part, by the strictest principles of honor ; and that, should such an indulgence be granted, I have no doubt but that it would readily be perceived that my not having stood in that point of view before the general court martial arose merely from an extreme anxious wish to avoid, as far as I thought possible, inconvenience to his Majesty's service ; likewise from a too rigid adherence to a (perhaps false) point of honor, for the credit and individual interest of the 43d regiment.

To palliate the unfavourable opinion which it seems to me, from the intimation you were pleased to honor me with, the Commander in Chief entertains, of my having most perversely and very imprudently resisted the condescending and very kind advice offered me by general Sir David Dundas, the honorable major general Forbes, and the assistant adjutant general (colonel Campbell), resulting from a mature deliberation upon my stated grievances, previous to the being called upon for my specific charges ; I beg leave to acknowledge that I considered the terms proposed to me were such, that no man, who might have been supposed to possess the least sentiment of honor, could have been expected to have acceded to ; and that I have ever had too high a respect for his Majesty's service, likewise for the Commander in Chief, to have imagined his Royal Highness would have permitted my bearing his Majesty's commission, or that the officers of any British regiment could have regarded so little the most noble of virtues, honor, as to have allowed me to have sat another moment in their



society, if, without any inquiry having been made relative to my complaints, I had made such an apology in the presence of the honorable major general Forbes, and all the officers of the 43d regiment, as would have contained a complete retraction of the charges (rather accusations) which I made against my commanding officer, and a conviction of their impropriety and injustice, as well as a wish to obtain pardon for using them.

I have the honor to be, Sir,

Your most obedient and  
most humble servant,

NATH. JEKYLL.

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*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR, Horse Guards, 11th Aug, 1804.

I HAVE not failed to lay before the Commander in Chief your letter of the 9th instant, and am directed to acquaint you, that his Royal Highness has no objection to your transmitting, for his information, whatever you may think of advantage

to you: but your conduct having been fully investigated by a general court martial, his Royal Highness cannot recommend that any alteration should be made in the decision already given,

I have the honor to be, Sir,

Your most obedient servant,

J. W. GORDON,

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*From N. Jekyll, Esq. to Lieutenant Colonel Gordon.*

SIR,

Welbeck-street, Sept. 24, 1804.

I HAVE the honor to request that you would most earnestly pray that his Royal Highness the Commander in Chief would be pleased to suffer a general court martial to be held upon my conduct, for having alleged charges against colonel Stewart of his Majesty's 43d regiment, and not having substantiated them before the general court martial lately held for the investigation of the same; that I might be favoured with an opportunity of exonerating myself from the most odious stigma which I am labouring under at present, from the declaration of that court martial; and of

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proving, that upon that occasion I was far indeed from having been actuated by malice or falsehood—imputations which, from the documents actually in my possession, combined with such testimony as I am well assured I might be enabled to procure in my own defence, I cannot but believe must be found to have been undeservedly heaped upon me.

To flatter myself with confidence that my most humble and fervent prayer will experience a favorable consideration, I am sure I have but to affirm (which I most solemnly do) that I cannot attribute the cause of my not having, at least honorably, justified my conduct upon the trial of colonel Stewart, to the several incidences of my not having been acquainted with all the established maxims of general courts martial; an excessive anxiety to avoid, at a critical juncture, as far as I thought possible, inconvenience to his Majesty's service; a too rigid adherence to a (perhaps false) point of honor, arising from great solicitude for the credit and individual interest of the 43d regiment; added to the not having reflected, under



an extreme agitation of mind, that events which had created ineffable mortification to myself should have been so slightly imprinted on the minds of officers, (from whose retention of memory it seemed to have been obvious, even to the Court, I had improvidently relied for the proof of circumstances the most material upon which my charges were founded,) that, at a period certainly not very distant, they should have almost entirely escaped recollection.

I beg leave to intimate to you, Sir, that in the event of my most sanguine hopes and expectations not appearing to have been fallaciously formed, I shall afterwards trespass no further on the great benevolence of the Commander in Chief than to supplicate that his Royal Highness would condescend to pray that the most excellent Sovereign, in consideration of above ten years' service, (which I trust might be found not to have been unzealously devoted to the interest of his Majesty's service, and to the community at large,) would be most graciously pleased to allow me to retire from the army, receiving the regulated

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sum which I actually paid for my late company in the 43d regiment.

I have the honor to be, Sir,

Your most obedient,

and most humble servant,

NATHANIEL JEKYLL.

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*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,

Horse Guards, Sept. 25, 1804.

I DID not fail to lay before the Commander in Chief your letter of yesterday's date ; and am directed to acquaint you, that no alteration can be made in the decision hitherto given on your case.

I have the honor to be, Sir,

Your most obedient humble servant,

J. W. GORDON.

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(Copy.)

SIR,

Welbeck-street, Sept. 28, 1804.

I HAVE the honor to acknowledge your letter of the 25th instant, which I received yesterday,

and to beg leave, with the most possible deference towards the pleasure of the Commander in Chief, therein communicated, to acquaint you, Sir, that should the good fortune yet await me of being permitted to evince, upon an abundance of respectable testimony, the impressions which I invariably had of colonel Stewart's treatment, and, in my own defence to adduce such further evidence as I might conceive sufficient to demonstrate how far those conceptions were justifiable, I am thoroughly confident my conduct in having preferred my complaints cannot but appear, upon a mature investigation to have been perfectly honorable. I therefore must again presume, with the utmost humility, fervently to solicit that you would do me the honor of praying that his Royal Highness the Commanner in Chief would condescend to reconsider the several circumstances stated in my letter of the 24th instant, and to allow the point of my having failed in the attempt to prove the facts, upon which my charges were founded, merely from the impulse of sentiments which cannot but be regarded as honorable, and



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even laudable, to occupy a few moments of his Royal Highness's attention; in anxious hope that the Commander in Chief might be most graciously disposed to cause a general court martial to afford me an opportunity of removing from my character the utterly intolerable weight of an odious imputation, which appears, to those of my friends who are really acquainted with my case as well as to myself, to have been unduly ascribed to me by the general court martial lately held on colonel Stewart.

I cannot refrain from assuring you, Sir, with the most profound humility, that when I assented to take upon myself the very arduous task of prosecuting a commanding officer before a general court martial, without even the testimony of the most material of the witnesses, whose names I had given in with the specific charges, in obedience to the orders of general Sir David Dundas, in the month of March last, it was with the most entire confidence (arising from many instances of the most impartial justice administered by the Commander in Chief, which had raised my hum-

ble respect toward his royal person and to the service to enthusiasm) that it would be treason, not only toward the Commander in Chief, but also to the state, to suppose that my honorable motives would really suffer disadvantages which could be deemed to bear the slightest tint of any thing at all incompatible with the honor and dignity of that immaculate justice, hitherto, for many ages, the basis of every honest Briton's greatest glory, and which has so long rendered every department of our most excellent government the object of envy and admiration to the rest of the world. Wherefore I cannot yet relinquish the ardent hope that his Royal Highness the Commander in Chief will most graciously be pleased to honor my present truly wretched and unfortunate situation with a favourable consideration.

I have the honour to be, Sir,

Your most obedient and  
most humble servant,

NATH. JEKYLL.

*To Lieutenant Colonel Gordon, &c. &c.*

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*From N. Jekyll, Esq. to Lieutenant Colonel Gordon.*

SIR, Welbeck-street, Oct. 4, 1804.

I HAVE the honor to pray that you would be pleased to favor me with a copy of a paper which I apprehend has been presented to the Commander in Chief, signed by many officers of the 43d regiment, contradicting a seeming inaccuracy contained in some part of the first statement of my regimental grievances.

The cause of my presuming to make this request to you, Sir, arises principally from my not having received (from the officer at whose instance it was done) either any kind of intimation of such a paper having been subscribed to, or transmitted to the Commander in Chief, although I expressed to several officers, who mentioned to me such a matter having been in agitation, a particular wish to have been made fully acquainted with its tenor ; and also from a conception that I have reason to imagine that the highest indignation of his Royal Highness has been excited



against me by that paper, and some reports which I understand have been preferred to head-quarters, representing me to have been an unzealous and an extremely negligent officer, in addition to the unfortunate failure of my charges.

Notwithstanding, I cannot lose the confident expectation that ere long I shall be enabled to lay before the Commander in Chief such documents as I trust will not fail to remove every unfavorable prejudice from my character, and create at least some small degree of interest on my behalf in the fostering breast of his Royal Highness.

I have the honor to be, Sir,

Your most obedient and

most humble servant,

NATH. JEKYLL.

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*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,

Horse Guards, Oct. 6, 1804.

I HAVE received and laid before the Commander in Chief your letters of the 28th September and 4th instant, and am directed to acquaint you, in answer to the former, that his Royal Highness sees no good reason to alter the decision already communicated to you ; and in reply to the latter, that on the subject of it you must apply to the judge advocate general \*, through whom alone any papers relative to questions arising from the proceedings of courts martial can be transmitted.

I have the honor to be, Sir,

Your most obedient humble servant,

J. W. GORDON.

\* I applied to the deputy judge advocate general for the copy of that letter, but found it not in his office ; nor was it probable that it would have been there, as not being immediately connected with the proceedings of the court martial. N. J.

*From N. Jekyll, Esq. to Lieutenant Colonel Gordon.*

SIR,

Welbeck-street, Nov. 6, 1804.

I HAVE the honor to pray that you would be pleased to lay before his Royal Highness the Commander in Chief the inclosed narrative of the principal circumstances upon which was founded the first of the charges exhibited by me against colonel Stewart, of his Majesty's 43d regiment of foot ; also a statement of some essential matters calculated to shew that my second charge was not without foundation ; to which I have prefixed some important comments, pointing out several of the great inconsistencies and inaccuracies specified in the defence of colonel Stewart, which I trust, with great humility, most confidently, will dispose his Royal Highness the Commander in Chief to suffer a general court martial to afford me an opportunity of removing from my character the insupportable weight of an odious imputation which has been most unduly attached to me by the unanimous declaration of the general court martial lately held on colonel



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Stewart. I have also the honor to acquaint you, Sir, that I applied to the judge advocate general for the paper which I understand was transmitted to his Royal Highness the Commander in Chief, signed by the officers of the 43d regiment, contradicting some seeming inaccuracy contained in one of my letters complaining of colonel Stewart's treatment to myself; and that Mr. Oldham informed me of its not being in that office, as not having been immediately connected with the proceedings of the general court martial.

I have the honor to be, Sir,

Your most obedient and

most humble servant,

N. JEKYLL.

*A STATEMENT*

Of the principal circumstances upon which was founded the first of the charges exhibited by Nathaniel Jekyll, Esq. against colonel Stewart, of his Majesty's 43d regiment of foot. Also of some essential matters, calculated to evince that the second charge was not without foundation; and likewise some material comments, pointing out several of the most glaring of many extreme inconsistencies, as well as evident inaccuracies, specified in the defence of colonel Stewart.

SIR,

Welbeck-street, Nov 6, 1804.

On the 22d of February 1802, an order was communicated to colonel Stewart, from his Royal Highness the Commander in Chief, by lieutenant general Sir Hugh Dalrymple, to cause a recruit-

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ing party from the 43d regiment, under the charge of a captain, to proceed instantaneously from Guernsey to Jersey, there to be under the direction of lieutenant general Gordon. That order was received by colonel Stewart when at the mess dinner of the 43d regiment; and upon its contents having been mentioned, major Hull (then captain) solicited that he might be permitted to take that tour of duty for me, my name standing the first among the captains for detachments. Colonel Stewart knowing, as he has stated in his defence, that Mrs. Jekyll was at that period confined by a dangerous illness, most readily assented to major Hull's request, previous to my having been informed of the arrival of the Commander in Chief's order. As the recruiting party was directed to go by the same packet, (which was expected to have sailed within a few hours afterwards,) major Hull lost no time in acquainting me of his Royal Highness's commands, and also of the before-mentioned arrangement having been made between colonel Stewart and himself: of course I did not fail to return with



major Hull to the mess room, to offer my acknowledgments to colonel Stewart of the obligation I felt at that moment, and also to do what I considered a necessary point of respect, in formally stating to colonel Stewart that it was the mutual desire of major Hull and of myself to effect the exchange of duty, to which the colonel had before been pleased to give his assent.—

Colonel Stewart, upon my entering the mess-room, told me of the Commander in Chief's orders, and added, that the friendly offer of major Hull to go in my place had obtained his entire concurrence ; upon which I considered, as did major Hull and every other officer who was present, that it was most decidedly settled by colonel Stewart that I was to have remained in Guernsey, for the reasons before stated. However, major Hull afterwards represented to colonel Stewart that the late captain Satterthwaite had signified a particular inclination to go in command of the party to Jersey ; at the same time confessing that his (major Hull's) only motives in volunteering that detachment arose from friendship to-

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ward me : in reply to which, colonel Stewart, in the most possible distinct and positive terms, declared his entire consent to that arrangement \*. But after some conversation between colonel Stewart and the late captain Satterthwaite, the colonel having permitted him to quit the mess-room without having betrayed to captain Satterthwaite even the slightest emotions of displeasure, for the purpose of directing his portmanteau to be packed, under the expectation that he was to have embarked immediately for Jersey, colonel Stewart intimated to me that he was not altogether pleased at the manner in which captain Satterthwaite expressed himself, relating to his going to Jersey ; and signified his wish that I should go with the recruiting party. The colonel likewise informed me, that although the object

\* Major Cameron has informed me, since the court martial held on colonel Stewart, of the fact of major Hull's, and afterwards of the late captain Satterthwaite's having received colonel Stewart's permission to embark in my stead, for Jersey, previous to my having been directed to proceed with the recruiting party ; and I am well assured that several other officers can testify to the same effect.

of the party was not specified in the orders which he had received, he was most fully aware of the detachment being destined to enlist men from the loyal Irish fencibles; and that as he was not anxious to receive any more Irish, and was, in fact, determined not to take one whom he could in any manner avoid, he (colonel Stewart) merely wished me to go and settle my party at Jersey. Colonel Stewart further assured me, that as soon as I had been three or four days in Jersey he would send me a subaltern; and added, that upon his arrival I might request a short leave of absence from lieutenant general Gordon, stating that I had the sanction of my commanding officer to make the petition, on account of Mrs. Jekyll's being extremely ill, and having been ordered by her physician to England, as soon as she could possibly have borne the removal. And further, colonel Stewart directed me to leave the same charges with my subaltern which he had given me, and to return straight to Jersey as soon as I had seen Mrs. Jekyll to England. The same injunctions were severally repeated to me.



The recruiting party having been detained until the following day, (some unlooked-for incident having prevented the sailing of the packet on the night of the 22d of February,) the very uncomfortable sensations which I not unnaturally felt on reflecting upon the truly deplorable situation Mrs. Jekyll was under, (without relative or female friend who could have afforded that care and attention which seemed to me absolutely essential to her existence, and being but indifferently provided with domestic attendants,) prompted me to entreat, on the morning of the 23d of February, that colonel Stewart would be pleased to permit the subaltern to accompany me, whom the colonel had promised should follow me, that I might not sail under the painful apprehension of being detained in Jersey much longer than was intended by colonel Stewart, in case no vessel should offer a passage until the following packet. I likewise mentioned to colonel Stewart, that at my request lieutenant Warner \* (now captain) had kindly assured me, that with much cheerfulness he would

\* See comments on colonel Stewart's defence.

voluntarily proceed upon that duty with me, provided it should meet the perfect approbation of himself. Colonel Stewart was not pleased, which he clearly evinced by his manner, at my praying that captain Warner should embark with me. However, he promised to comply with my supplication, and again repeated the leave \* which he

\* The leave, being given in that particular instance was most unquestionably fully established by the testimony of Mr. Havelock, as appears upon the proceedings of the court martial.

The names of major Cameron, Mr. Salmond, and Mr. Havelock were given in by me as the evidences by whom I expected to have established the fact of the leave having been granted by colonel Stewart, previous to my departure from Guernsey. Most improvidently I suffered a (perhaps mistaken) zeal for the individual interest of the 43d regiment to prevent my ascertaining the nature and extent of the testimony which any officer could have given me in support of my charges; nor did I reflect that major Cameron might have only heard merely a few words of a long conversation, (on the evening of the 22d of February,) in which colonel Stewart gave me leave to return from Jersey, after passing a few days there; neither did it occur to me that major Cameron's mind, having, at the same time, been engaged in converse with other officers upon other topics, would have received but such imperfect and confused ideas, that he could not have given any decisive testimony upon the point of the leave granted to me in his presence. Yet it is of im-

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had several times before given me, by telling me, that as soon as I had established my party in Jersey I might return.

portance that major Cameron should have perfectly remembered Mr. Salmond's being present in the mess-room during the whole of the conversation between colonel Stewart and myself; for it might reasonably be inferred, that had Mr. Salmond appeared in evidence, there would have been two most positive witnesses to have established that fact; one of whom would have proved it to have been given on two distinct occasions, and in two separate places; for Mr. Havelock deposed that, even after I had submitted to the arrest, and to have been ordered back to Jersey in disgrace, Mr. Salmond and himself exchanged mutual assurances of colonel Stewart's having given me the leave to return from Jersey in the most full and unequivocal terms.

Although Mr. Salmond's name was given in by me in the beginning of March last, (in obedience to general Sir David Dundas's peremptory commands to deliver instantaneously the names of my evidences, with my specific charges,) yet he was not ordered to attend the trial of colonel Stewart; and I was alone induced to proceed with the prosecution, without that officer's testimony, by a misplaced confidence that major Cameron would have so far supported that which was given by Mr. Havelock as to have saved myself from the charge of having advanced groundless accusations against my commanding officer; and by the suggestions of colonel Campbell, the assistant adjutant general, in which it was represented, that such trouble, uncertainty, and delay would attend the procuring of Mr. Salmond's presence, as to occasion serious inconvenience to his Majesty's service.



In the course of three or four days after I had left Guernsey, lieutenant general Sir Hugh Dalrymple, having heard from major Barclay (now of the 52d regiment, and who was then brigade major in the island of Guernsey,) that I was about to return from Jersey, expressed to colonel Stewart the great surprise he felt at a circumstance he thought so incompatible with the spirit of orders which had proceeded through himself from the Commander in Chief, as that I should quit the duty I had been ordered upon without being relieved. Colonel Stewart, it is presumed, to exonerate himself from the displeasure of Sir Hugh Dalrymple, most positively denied ever having given me any kind of leave whatever to return from my recruiting party; upon which Sir Hugh Dalrymple ordered that I should be placed under an arrest as soon as I should return from Jersey. Still colonel Stewart did (afterwards) request the lieutenant general's permission to send major Hull to relieve me, which was granted.

Having so far executed the orders of his Royal Highness the Commander in Chief, that I had

enlisted near a hundred of the flower of the loyal Irish fencibles, and had ascertained that there remained no prospect of procuring above two or three men except those who had actually engaged themselves with me, I entreated a fortnight's leave of absence from lieutenant general Gordon, stating that colonel Stewart had sanctioned the application on account of Mrs. Jekyll being very seriously indisposed, which I obtained.

I returned to Guernsey on the 6th of March, taking with me a considerable number of volunteers from the loyal Irish fencibles. Upon my landing in Guernsey I met major Barclay on the pier, who communicated to me, with assurances of deep regret, that Sir Hugh Dalrymple was exceedingly angry at hearing of my intended return, and had ordered me under an arrest, in consequence of colonel Stewart's having reported to him that I was about to quit my recruiting party without his leave, and contrary to his very particular orders. I most positively affirmed to major Barclay that my mind was perfectly at ease as to the subject of the arrest, from having had

the leave of colonel Stewart, and also that of lieutenant general Gordon, to return from Jersey, for the purpose of taking Mrs. Jekyll to England.

However, when I reflected that an *eclaircissement* could scarcely fail to involve colonel Stewart in a general court martial, a painful remembrance of the most afflicting weight of the displeasure of his Majesty and of his Royal Highness the Commander in Chief, from which the 43d regiment had at that time scarcely recovered, added to some scandalous reports which had been industriously circulated, and had affected the corps deeply in the public estimation, relating to the melancholy fate of colonel Stewart's immediate predecessor, determined me to take upon myself the result of Sir Hugh Dalrymple's displeasure. Nor can I apprehend that any liberal mind will for a moment imagine a reflection to my dishonor, when I acknowledge that after having most firmly maintained to colonel Stewart that he could not but remember the giving me leave to return, prior to my quitting Guernsey, I voluntarily consented to allow my return to have been represented to Sir



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Hugh Dalrymple as having proceeded alone from a misunderstanding on my part. Colonel Stewart having stated to that effect to Sir Hugh Dalrymple, the lieutenant general permitted my being released from the arrest in the evening of the same day that I was placed under that painful and degrading situation \*.

Colonel Stewart having obtained Sir Hugh Dalrymple's consent to send another captain to Jersey, for the purpose of relieving me, major Hull would have proceeded to Jersey the following morning, had not the packet passed by (at the dawn of day) without coming to anchor or lying to, so that major Hull could not reach the pier in time to get on board after she had been descried; therefore it would be easy for me to prove that major Hull would have gone (and of course have prevented my return to Jersey) the morning after my release, and many hours prior to my being re-

\* Colonel Stewart has represented in his defence that I was not released from my arrest until the time of my being reprimanded by Sir Hugh Dalrymple the following day.—(See Defence.)

primanded by Sir Hugh Dalrymple \*, but from a mere accident.

In the course of the morning of the 7th of March (the day after my having been under an arrest), colonel Stewart irresistibly pressed a wish that I would return to Jersey, to convince Sir Hugh Dalrymple that my leaving that island was not through any want of zeal for the duty on which I had been sent thither; the colonel assured me that he had no doubt of the party being recalled in the course of a week or ten days. Mrs. Jekyll appearing at that period rather surprisingly amended, I did not hesitate in complying with the colonel's desire; on which account I accompanied colonel Stewart to the head quarters, and upon my introduction to the commander of the island I expressed the deepest regret at having unwittingly incurred Sir Hugh Dalrymple's displeasure; but still the lieutenant general, notwithstanding his having released me from the arrest the preceding evening, animadverted in the most severe and

\* This will appear, in my comments on the defence, a very important circumstance to be borne in mind.

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painful manner upon my conduct in leaving my detachment. And then colonel Stewart affirmed, in the most possible solemn manner, upon the word and honor of an officer and a gentleman, that he had never uttered a syllable which could have led me to suppose, even for an instant, that any consideration whatever could have induced him to have acted so contrary to the spirit of orders proceeding from his Royal Highness the Commander in Chief, as to have given me permission to have left my detachment as I had done. After which, colonel Stewart informed Sir Hugh Dalrymple that major Hull had missed his passage (from the circumstance I have just before described), and that he had arranged that I should proceed back to Jersey by the first vessel that should be bound for that island, to resume the command of the recruiting party.

Although my humble indignation was raised to such a degree that I could not refrain from openly declaring my sentiments which the conduct of colonel Stewart could not fail to have excited in my breast; I feel it an indispensable point of ho-



nor towards Sir Hugh Dalrymple here to affirm, that I did not assert (as lieutenant colonel Leighton has deposed) in the lieutenant general's presence, that colonel Stewart had actually given me the leave which he had so strenuously disavowed.

It so happened that no vessel sailed for that island on the 7th or 8th of March, and on the 9th it blew so heavy a gale that the several traders which were to have sailed early on that morning were afraid to put to sea.

However, on the garrison parade of that morning (Tuesday the 9th of March), Sir Hugh Dalrymple passed the most painful and humiliating animadversions on my conduct in leaving my detachment, by applying to me, in the face of several regiments assembled under arms, the humiliating epithet of "that skulking captain."

Having now positive documents of that event, I have not the least sensation of diffidence in presuming to affirm to his Royal Highness the Commander in Chief that I can most fully substantiate every point specified in the preceding statement,

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of the several matters which formed the basis of my first charge.

As to my second charge, I was unable to advance with it, for the reasons which I stated to the court martial—that my principal witnesses did not support the testimony which they at first gave me, to enable me to proceed with it.

However, I trust I could sufficiently prove the impressions which I invariably had of colonel Stewart's conduct towards me, and also that those sentiments were so far from having been without foundation, as most honorably to exempt me from the imputation of having been instigated either by malice or falsehood in preferring my complaints against colonel Stewart.

For I could shew, that in the island of Guernsey my (late) company was actually in such a state of insubordination, that I had neither power nor authority to enforce obedience to those orders which I thought absolutely requisite to issue to the non-commissioned officers and privates for the interior economy of the company; particularly in the instance of orders I had frequently given out

for causing the men's names to have been affixed to their berths, or sleeping places, in the barrack rooms (in compliance with a regimental order); scarcely is there a man of my late company who could not prove that I had gone into the barracks almost daily, for many weeks together, and had as often ordered a serjeant, named Cross, to get the names of the men attached to their respective berths, and that that and many other orders of mine, never were complied with. I could also shew that, when I have confined that very serjeant for the most unsoldierlike conduct, and even for a most pernicious and flagrant breach of honesty towards a private of the same company, colonel Stewart has assembled the serjeant, then a prisoner, with other non-commissioned officers and privates of my late company, for the seeming purpose of an investigation, but has very passionately and most peremptorily refused me permission to lay open the case to him; has released the serjeant upon his own vague and confused tale, which I could have proved (had I been allowed to speak), beyond all possible doubt, to have been utterly



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false; and I was treated in an extreme unhandsome manner, in presence of those non-commissioned officers and privates, for having confined the serjeant; yet colonel Stewart, very shortly afterwards, twice ordered courts martial to investigate complaints of a very inferior nature, when that serjeant was confined at the instance of a young subaltern\*, whom I had appointed to distribute the pay of the company. It must likewise appear, that no non-commissioned officer or private of my company was ever suffered to be tried by a court martial, when confined by myself, during colonel Stewart's command of the 43d regiment, notwithstanding the company was actually in such a state of insubordination as to have dared so far to have held my orders in open defiance, that after finding all exhortation to promote a spirit of discipline altogether ineffectual, when I have even repeatedly issued (in the orderly book) the most positive orders for the company to assemble on its private parade half an hour before the usual time, on ac-

\* Lieutenant (now captain) Gardner.

count of the slovenly and unsoldierlike conduct which at that time prevailed in the company to a most serious degree, the utmost exertions of myself, with the aid of my serjeants and corporals, could not, upon any one occasion, enforce obedience to those orders; so far from it, lieutenant colonel Mackenzie (late major of the 43d regiment) has, at the same period, confined the whole company to the barracks, and ordered several extraordinary parades in one day, for not turning out for the parade until a long while after every other company had been formed on the general parade, and for then appearing extremely dirty and unsoldierlike.

Lieutenant colonel Mackenzie must well remember my having formally reported to him that the excessive unmartial conduct which then so evidently pervaded my company, I attributed to colonel Stewart's not affording me that support in the execution of my duty which was indispensable to the existence of good order and military discipline; and that I also stated that the men had witnessed such instances of disrespect from colo-

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nel Stewart towards me, in the duty of my company, that, knowing they might proceed to almost any length with impunity, the soldier presumed to treat the authority of myself and of my non-commissioned officers with total disregard. I further believe, that lieutenant colonel Mackenzie will also bear in mind his communicating that statement to colonel Stewart, and that in his presence I persisted in the same to the colonel.

That these circumstances were not suffered by me to lay dormant, and afterwards brought forward from any sudden impulse of spleen, I trust I can evince most fully and most honorably, by shewing that they were not stated to the Commander in Chief until I found every assiduous exertion and expedient to convince colonel Stewart of the utter injustice of the extraordinary series of persecution which I have laboured under from him, to have been wholly delusive and ineffectual \*.

*To Lieutenant Colonel Gordon, &c. &c.*

\* See Introduction.



COMMENTS  
ON  
COLONEL STEWART'S DEFENCE.

My case not having been fully evidenced by the general court martial held on colonel Stewart, from the circumstances of my having suffered an excessive ardor of zeal for the interest of his Majesty's service to have prevented my calling forward a sufficiency of testimony to confirm the several matters contained in the foregoing narrative, and likewise from my not having been sufficiently aware of the established rules of general courts martial, to have embraced the *proper opportunity* of stating some essential considerations to the Court; I most humbly and most fervently presume to pray that his Royal Highness the Commander in Chief would further be pleased most graciously to take into mature consideration the following important comments upon

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the several matters advanced by colonel Stewart in opposition to the accusations preferred by me before the general court martial assembled at Sandgate, on the 25th of June last; trusting they cannot fail to excite the liveliest sensations of interest for my unfortunately deeply injured character:

Colonel Stewart states, in his very feeble defence, that the circumstance which led to the first charge originated in his having, in the month of February 1802, directed me to proceed with a detachment to Jersey, for the purpose of recruiting; that those directions were given by the colonel *because I was the first officer for that duty*; that I represented to the colonel, at the time, how much I was distressed at being obliged to quit Guernsey, as I must necessarily leave Mrs. Jekyll, who was confined by a dangerous illness; that *humanity dictated to him the propriety of doing what was in his power to alleviate the sufferings of myself*, and he was induced to assure me that

*as soon as he could find another officer to relieve me I should be recalled.*

To mark the extreme inconsistency of those declarations, I shall beg leave, in the first place, to entreat the earnest attention of the Commander in Chief to the following transcript of colonel Stewart's own orders, which now stand upon every orderly book (of that date) in the 43d regiment :

R. M. O.                      Amhurst Barracks, Feb. 22, 1802.

A detachment, consisting of one captain, two serjeants, one drummer, and one private, will embark for Jersey on board the packet now in the harbour. Captain Jekyll, who is for the above duty, will report himself upon his arrival there to lieutenant general Gordon, and follow his further directions.

R. M. O.                      Amhurst Barracks, Feb. 23, 1802.

A subaltern is added to the party under captain Jekyll, and will embark with them accordingly: for this duty lieutenant Dumoulin.



R. A. O.

Amhurst Barracks, Feb. 23, 1802.

Lieutenant Delisle having obtained permission to take lieutenant Dumoulin's detachment for him ensign Champ will be for piquet this evening.

When I shall have incontrovertibly proved that colonel Stewart had given a most unconditional consent to major Hull's taking that duty for me, prior to the colonel's having afforded me even the slightest shadow of reason to imagine that he entertained the least degree of wish that I should proceed with the recruiting party to Jersey; the inconsistency of my having been sent to Jersey *because I was the first officer for duty* will be sufficiently evident by the after regimental orders of the 23d of February; for if I had been sent with the recruiting party on that account alone, how extraordinary must it not appear that the subaltern (whose tour of duty it is shewn to have been) should have been permitted to exchange that duty, at the mere request of the other officer who went under my command!!! And when it should be observed that I was sent to Jersey only through

some little sensations of pique towards the late captain Satterthwaite, I shall be exempt, I trust, from the imputation of ingratitude, when I acknowledge that I did not embark under the supposition of being indebted to colonel Stewart for the exercise of any uncommon impulse of humanity.

As to any assurance colonel Stewart had given me that I was to have been recalled “as soon as he could find another captain to relieve me;” of the many considerations I could advance to shew the utter improbability of such an event, I shall at present urge but the few following remarks:

Colonel Stewart, I think, cannot state any adequate motive for having intended to place himself in the awkward situation of reporting to Sir Hugh Dalrymple my having sailed in command of the detachment for Jersey, and of requesting so immediately as in the course of two or three days, that another captain might be sent to relieve me, because Mrs. Jekyll continued in the same state of serious indisposition that she had been in at the time of my departure; for it is to be supposed

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that of course some reason would be given for soliciting the lieutenant general's sanction to that measure. Colonel Stewart has not assigned, neither can he, any feasible cause which could have operated in his mind to have overruled an anxious wish "to alleviate my sufferings *as far as in his power,*" to have prevented his actually complying with the request of major Hull to have proceeded in my stead with the detachment at first, especially if the colonel had seriously *intended* sending that officer after me in the course of a few days.

It is true that major Hull would have sailed for the purpose of relieving me some days prior to my return, if a passage could have been procured; but then it is to be remarked, that it was not until after Sir Hugh Dalrymple had surprised colonel Stewart by the sentiments he expressed relative to the detachment being left without a captain, that the colonel made any application to the lieutenant general for my being relieved; and perhaps it might not be thought wholly unlikely that colonel Stewart might have felt some little emotions of



serious alarm at the manner in which Sir Hugh Dalrymple spoke concerning my leaving Jersey, and had denied the fact of having given me the license, which I trust I shall shew could not at that period have escaped his recollection, under a hope that he might have been enabled to have sent major Hull off instantaneously, and that he would have reached Jersey ere I should have sailed from thence (as it was not above three or four days subsequent to the party's having left Guernsey that that conversation took place between Sir Hugh Dalrymple and colonel Stewart), and that in that case no further serious notice would have been taken by Sir Hugh Dalrymple upon the subject.

The more than probability of colonel Stewart's having intimated nothing to me of any intent to send another captain to have relieved me, as well as the utter impossibility of my ever having had such a supposition, must be very obvious indeed from the several very extraordinary circumstances (all of which I can most fully prove) which attended the subaltern's proceeding under my command to Jersey.

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. In the first place, it will evidently be seen, by the regimental orders of the 22d and 23d of February 1802, that no subaltern was intended to have accompanied the recruiting party to Jersey at the time of my being ordered to take charge of it, and that if I had sailed from Guernsey on the evening of the 22d of February, I should have actually proceeded without a subaltern; that the packet was fully expected (when I was ordered to embark) to have sailed before the next morning, I can evince far beyond the reach of uncertainty.

That I most fully believed the subaltern to have been ordered with me *merely for the special end that I might have procured a leave of absence*, on account of Mrs. Jekyll's unfortunate situation, shall most undoubtedly demonstrate, by stating, that captain Warner (now of the 40th regiment) perfectly remembers my having called upon him early on the morning of the 23d of February, and requesting very earnestly that he would consent to go with me upon the recruiting party to Jersey; also that he authorised my informing colonel

Stewart that he would cheerfully accede to my wishes, provided the arrangement should not appear in any degree unpleasant to the commanding officer.

Lieutenant Delisle has now furnished me with documents, proving that on my passage from Guernsey I informed him of my having had colonel Stewart's permission to request a short leave of absence from lieutenant general Gordon as soon as I should have passed a short time in Jersey, for the purpose of conveying Mrs. Jekyll to England; and that in about ten days after my arrival in Jersey I gave the recruiting party under his charge, and, having obtained lieutenant general Gordon's leave of absence, returned to Guernsey with a view of proceeding to England; also that I returned unexpectedly in the course of a few days, and related to him that colonel Stewart had denied having given me permission to quit my detachment, and that consequently I had been put under an arrest, by order of Sir Hugh Dalrymple, and called "a skulking captain" by the lieutenant general on the garrison parade.



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Major Barclay has deposed (upon colonel Stewart's trial), that on my landing in Guernsey, when he communicated to me the very surprising intelligence of my being ordered under the arrest, I assured him of my mind being then most perfectly at ease as to the cause of the arrest, and that I most positively maintained to him my having had the leave of lieutenant general Gordon, as also that of colonel Stewart.

It is very material also to reflect with mature consideration that my object in returning from my recruiting party was invariably avowed to have been for the only purpose of conveying Mrs. Je-  
kyll from Guernsey to England; and to bear in mind, at the same time, that I returned to Guernsey, in full regimentals, at the head of a large batch of volunteers from the loyal Irish fencibles; which circumstance I could not but have been aware must have proclaimed my return both to Sir Hugh Dalrymple and to colonel Stewart: therefore it is not to be presumed that I should have been so extremely devoid of every species of common sense as to have thought I should have

been permitted to have gone from Guernsey to England, even if I had procured lieutenant general Gordon's leave of absence, through false pretences, when my being in Guernsey was so publicly known; and had I been so utterly insensible to honorable and prudent motives, it cannot be imagined that I should have been so astonishingly rash as to have gone back from Jersey in a vessel whose decks were crowded with soldiers\*.

Colonel Stewart next states, and with great inconsistency, that "major Cameron's deposition corroborated his (colonel Stewart's) statement," in contradiction to my assertion of having had colonel Stewart's leave of absence, "in the most direct and pointed terms." But, on the contrary, major Cameron deposed, that during the conversation which passed in the mess room, on the evening of the 22d of February, relative to my returning from Jersey, he was sitting at some considerable distance from colonel Stewart and myself, engaged in different converse with other

\* See Introduction.

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officers, so that he was not at all attending to what was said between colonel Stewart and myself ; only a few words by mere accident confusedly caught his ears, of which he stated himself to have retained so very imperfect a recollection that he considered himself wholly incapable of giving any decisive evidence concerning my having had colonel Stewart's leave to return from Jersey. But still, from some words which he did hear, the major imagined that it was colonel Stewart's intention to have sent another officer (very shortly) to have relieved me. However major Cameron deposed, in reply to colonel Stewart's own and only question, that he did not recollect to have understood, from what he heard in the mess room, that colonel Stewart's sending another officer to relieve me was the only condition on which I was to have returned ; therefore, from what appeared on the proceedings of the court martial, major Cameron's testimony, so far from corroborating colonel Stewart's assertions in the most direct and positive manner, may be fairly set down as wholly nugatory upon the point of my having had colonel



Stewart's leave ; especially when it might reasonably be inferred that the imperfect impression which major Cameron appeared to have imbibed, might have arisen from some words which he might have heard when colonel Stewart was speaking of sending a subaltern on purpose to enable me to obtain lieutenant general Gordon's leave of absence.

Colonel Stewart has endeavored to attach considerable weight to the circumstance of his having pronounced, with much evident warmth, that most full and positive leave which Mr. Salmond and Mr. Havelock heard in the barrack yard on the morning of the 23d of February ; but so far from that vehemence of temper seeming to me susceptible of the construction which the colonel labors to impute to those little emotions of passion, I most humbly conceive that it would very naturally be supposed that if I had addressed colonel Stewart with any matter or style of expression which would have justly excited his wrath or indignation, such unbecoming conduct would not have produced that most clear and decided indulgence which ap-

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pears, by the proceedings of the court martial, to have terminated that conversation; at least, had not colonel Stewart have felt that it had been previously irrevocably given; but so far from attempting to ascribe to my own cause any undue inferences, I think it incumbent, in consistency with that candor which I trust will be found to pervade the preceding narrative and these remarks, to declare, that that warmth, upon which the colonel has built so much stress, was excited by my having earnestly petitioned that captain Warner might accompany me to Jersey, from the motives before stated, which it appears was not perfectly agreeable to colonel Stewart. Nor would it be difficult for me to evince, that colonel Stewart was much in the habit of venting a warmth of temper amounting to great petulance, even upon the most trivial occurrences, to officers under his command who were not proverbially distinguished as objects of his extraordinary partiality; and also, that I have felt myself under the necessity of complaining to colonel Stewart, that the unhandsome warmth which I frequently experienced from the

colonel occasioned my feeling much pain in addressing myself to him.

As to the importunity with which colonel Stewart has more than insinuated that I pressed to be excused from going to Jersey, I feel it requisite, in justice to my own character, as well as to the humanity of colonel Stewart, to affirm, that after I was directed to take charge of the recruiting party ordered to Jersey, I never did request, in any shape whatever, that I might be *excused* from going on that duty. If I really had urged such a prayer with fervency, upon the plea of Mrs. Jekyll being dangerously ill and in a truly comfortless situation, (after having given a seeming most possible unconditional permission to major Hull's, and afterwards to captain Satterthwaite's taking that duty for me,) in what a light must the humanity of colonel Stewart appear in peremptorily refusing such a supplication, as it must be imagined mine would have been, and so readily, at the same instant, excusing the subaltern officer who was ordered under my command on account of his being the first of that rank for duty, at the



mere request of the officer who went in his place!!!

It might be presumed, almost as a matter of course, that neither of the officers who were on Sir Hugh Dalrymple's staff were summoned to prove the fact of colonel Stewart's giving me the leave, as it must be regarded as unlikely that either of those officers would have been in a situation to have heard a conversation between colonel Stewart and myself which it might be conjectured would have been somewhat tinged with indifference towards an order proceeding from his Royal Highness the Commander in Chief. Lieutenant colonel Leighton and Major Barclay have given every support to that matter which I could well have expected; the one confirming my having asserted that I had had the licence which the colonel so strenuously denied prior to the arrest, and the other stating that I maintained the same thing even after these humiliating occurrences: although lieutenant colonel Leighton's memory has been defective as to the particular time of his having heard me utter those declarations, yet it must be

admitted to be of no small moment to my own reputation to shew that that transaction was not brought forward, after so great a lapse of time, in a different shape to that in which the conduct of colonel Stewart, in that instance, has invariably appeared to me.

I cannot but feel too high a degree of respect for Sir Hugh Dalrymple to think it necessary to offer any further remarks upon those points of lieutenant colonel Leighton's deposition which appeared to give an unfavorable complexion to my charge, than to refer to the degradations which colonel Stewart states in his defence that I sustained from the lieutenant general; being well assured that a very little reflection must most thoroughly persuade the lieutenant colonel of the defalcation of his recollection, being even far greater than he supposed it to have been. Lieutenant colonel Leighton prefaced his deposition with an avowal that he retained but so very confused and extreme imperfect recollection of what he had witnessed upon that occasion, as to have felt himself incompetent to afford any positive testimony

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upon the subject: but surely lieutenant colonel Leighton, or any other person, having but a very faint knowledge of Sir Hugh Dalrymple's character, could not suppose he would have treated me with the extreme degradations which colonel Stewart has so strongly laboured to persuade the court martial that I did experience, if colonel Stewart had but admitted even the possibility of a mutual misunderstanding having existed. Had the circumstances really occurred as lieutenant colonel Leighton has represented, my charge then would have been most malicious indeed.

But upon a re-examination of the proceedings of the general court martial held on colonel Stewart, I cannot but consider myself as most wonderfully indebted for a miraculous instance of the Divine interposition in the administering of justice; for colonel Stewart has, in his own defence, stated to the utmost extent, and even gone far beyond actual occurrences of that part of my charge which alone I could not otherwise have substantiated, owing to the amazing defalcation of memory on the part of those officers who composed



Sir Hugh Dalrymple's staff; for colonel Stewart states (in his defence), that "having returned  
" from Jersey without (his) permission, I *was*  
" *involved in those humiliating scenes of which*  
I " *complained;*" and further, colonel Stewart endeavors to impress on the court martial a belief that the whole matter was most fully investigated by Sir Hugh Dalrymple; and also "that by Sir  
" Hugh Dalrymple's orders I was put under an  
" arrest, from which I was released on his (colonel Stewart's) accepting the acknowledgment" which was made to him by myself; "and that Sir  
" Hugh Dalrymple still further marked his opinion of the transaction by reprimanding me and  
" *sending me back to Jersey;* although captain  
" Hull, who had been appointed to relieve me,  
" but had been prevented by an accident from  
" sailing previous to my return, was willing to  
" have gone in my place."

Sir Hugh Dalrymple, if called upon, will certify, of course, that at the time of my being reprimanded, or previously, I did *not* assert that I had actually had the leave (which the colonel had de-

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nied) to him ; that consequently no investigation was made by Sir Hugh Dalrymple into the transaction, before his staff, or upon any other occasion ; also, that I made no apology whatever, in his presence, to colonel Stewart ; that I was released from the arrest the *same evening* of my having been placed under that painful situation ; and that the lieutenant general understood, and expected that major Hull would have proceeded to Jersey, in my place, when he (Sir Hugh Dalrymple) assented to my release ; and lastly, *that I was not sent back to Jersey by any peremptory command from Sir Hugh Dalrymple*, but that I returned by the lieutenant general's consent, in compliance with the *special pleasure of colonel Stewart*.

Thus, every other part of my first charge standing incontestibly proved, it remains only to contrast the strong tide of the most positive and most essential circumstantial evidence that almost ever occurred to establish the fact of a leave of absence having been acceded to by a commanding officer of a regiment, to the series of astonishing incon-

sistencies and most glaring inaccuracies, framed under the truly feeble defence of colonel Stewart, to shew that I have not preferred malicious and groundless accusations against colonel Stewart, as asserted by the unanimous declaration of the general court martial held on colonel Stewart: wherefore I confidently trust that the Commander in Chief will adopt such measures as in his wisdom may seem best calculated to afford me an instance of that full and impartial justice which has hitherto characterised his Royal Highness's command of the British army.

I have the honor to be, Sir,

Your most obedient and

most humble servant,

NATHANIEL JEKYLL.



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*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,


Horse Guards, 7th Nov. 1804.

I HAVE received and laid before the Commander in Chief your letter of yesterday's date, with the accompanying statement; and am directed to acquaint you, that his Royal Highness sees no reason to recommend an alteration being made in the former decision.

I have the honor to be, Sir,

Your most obedient humble servant,

J. W. GORDON.



(Copy.)

*To Field Marshal his Royal Highness the Commander  
in Chief, &c. &c. &c.*

SIR,

IN full conviction that my case must be found, upon a mature investigation, to have been very far indeed from having been really evidenced by the general court martial lately held on colonel

Stewart of his Majesty's 43d regiment ; with the most possible humility I beg leave most earnestly to pray, that your Royal Highness would condescend to honor the following statement of essential matters with serious attention ; being confidently assured that they cannot fail to interest your Royal Highness's most benevolent and fostering breast in the relief of my much injured and deeply wounded reputation.

On the 6th instant, I had the honor of addressing to lieutenant colonel Gordon a statement of the several facts upon which I founded my first charge ; also of matters calculated to prove that my second was not wholly without foundation ; to which I added such comments upon the incongruities and inaccuracies contained in the feeble defence of colonel Stewart, as, I trust, even upon a very cursory view, must clearly demonstrate that at length I am in actual possession of such documents as might, in my own justification, substantiate my first charge most fully ; and also confirm my several declarations (which I conclude have been conveyed to your Royal Highness) in

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my letters to colonel Clinton and to lieutenant colonel Gordon, that my not having substantiated that charge before the court martial, arose from a too rigid adherence to a perhaps false point of honor towards the interest of the 43d regiment (from a fear that my appeal might have borne the appearance of being tinted with the spirit of cabal, which had formerly so seriously involved the corps under the dreadful weight of the high displeasure of the most gracious Sovereign, and of your Royal Highness), in not having, previous to giving in the names of my witnesses, and prior to the assembling of the general court martial, examined the several officers of the 43d regiment as to the nature and extent of the testimony which they were capable of affording me ; likewise (from an excessive degree of anxiety to avoid, to the utmost possible degree, inconvenience to his Majesty's service at a seeming awful and critical juncture) in not imploring the attendance of lieutenant general Sir Hugh Dalrymple ; also, in proceeding upon the trial of colonel Stewart without two very material evidences, whose names I had given in agree-



able to the express commands of general Sir David Dundas in the month of March last, but who did not attend the court martial, owing to their not having been summoned before the sitting of the court martial was appointed in the general orders of the southern district. I have shewn, in my statement of the 6th instant, that had Mr. Salmond (the late surgeon of the 43d regiment) and lieutenant Delisle (also late of the 43d regiment, and who accompanied the recruiting party under my command to Jersey) been present, I should have produced such a chain of the most positive and very strong circumstantial evidence, as I believe have very rarely occurred to support an officer's assertions of having received a sanction from a commanding officer of a regiment to obtain a leave of absence.

In my own defence, I should scarcely imagine it to be more than requisite to prove the astonishing inconsistencies and palpable inaccuracies which colonel Stewart has urged in his defence, to confirm that part of my first charge which related to my having had colonel Stewart's permission to leave

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Jersey. The other parts of that charge colonel Stewart has most thoroughly confirmed, notwithstanding the amazingly confused and incorrect ideas which lieutenant colonel Leighton and major Barclay are stated upon the proceedings to have had of the circumstances which I represented myself to have encountered, in their presence, from lieutenant general Sir Hugh Dalrymple ; for colonel Stewart there unquestionably maintains, that I actually *did experience from Sir Hugh Dalrymple those humiliating scenes of which I had complained.* Indeed the colonel does more ; for, even there, he advances serious digressions from facts, as I have shewn in the conclusion of my comments on the defence.

As to my second charge, I was obliged to relinquish it principally from the circumstance of my evidences not then supporting the testimony which at first they gave me, and partly from having been convinced of its being too generally expressed to have afforded me any confidence of being enabled to support it fully by the specific instances which I meant to have adduced ; however, to

shew that it was not wholly unfounded, I could easily prove that the whole of my late company was in such a serious state of insubordination, that I was utterly unable to enforce obedience to orders which appeared to me absolutely requisite for the existence of good order and military discipline ; that when the company was detached under the command of lieutenant colonel Mackenzie, I have formally reported to him that the extreme unsoldierlike conduct which most conspicuously pervaded my company, arose entirely from my never having been supported in my duty by colonel Stewart, and from my having experienced from the colonel such marked disrespect in presence of my non-commissioned officers and privates, that the company, knowing they might with me proceed to almost any lengths with impunity, dared totally to disregard all my orders : and further, that when I have confined a serjeant, after a long series of highly improper conduct, for a flagrant breach of duty, and even of honesty, towards a private of the same company, colonel Stewart had assembled several other non-commissioned officers and also



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several privates, for the seeming purpose of investigating the matter ; and the colonel, in an extreme harsh manner, repeatedly refused to suffer me to detail the circumstances which had come to my knowledge previous to having confined the serjeant, and released the serjeant upon his own vague tale, which I could have proved by the persons then present to have been more than improbable ; and that I suffered, for having discharged what I conceived an indispensable duty in confining the serjeant, such excessive harsh and unhand-some treatment, that I really felt myself unwarrantably insulted, and exceedingly degraded in the eyes of the non-commissioned officers and privates of my (late) company.

It seems to me very material to state, that my charges were given in under very great disadvantages ; for when I was called upon to deliver in my specific charges, I stated, to general Sir David Dundas, my mind to have been so greatly agitated that I felt myself very incompetent to the arduous task of forming my complaints under specific

heads, without the aid of counsel, or of some experienced military friends ; and in vain besought the indulgence of such assistance ; and also, that when I had the honor of imploring your Royal Highness (through the adjutant general) on the 26th of March, to permit my amending the charges transmitted through general Sir David Dundas, my prayer was unfortunately ineffectual ; that agitation of mind was not in a small measure created by the dreadful situation I felt myself under, in having no alternative to giving in my charges under such exceeding unfavorable circumstances, but that of acceding to conditions held out to me by the honorable major general Forbes, which must have irretrievably branded my name as an infamous villain ; for had I declared, in presence of the major general and of the officers of the 43d regiment, that I had advanced the most serious accusations to the dishonor of a commanding officer, under a thorough conviction of their being wholly false and unjust, and at the same time have supplicated colonel Stewart's forgiveness for such

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unpardonable and villanous conduct, I have to bless my Creator, that I cannot imagine your Royal Highness would have allowed my retaining a commission in his Majesty's service; that the officers of any one of his Majesty's regiments would afterwards have suffered me to have sat down in their company; or that, bearing my then truly infamous name, I should have found a corner in the British dominions where I could have looked one of his Majesty's subjects in the face, without beholding those emotions of indignation and abhorrence which I should most justly have deserved.

Permit me now, Sir, with the most profound respect, and with the most possible degree of humility, to add, that when I reconciled my mind to proceed in the prosecution of my charges without the most essential of those evidences whom I could have found to have supported them, it was under the same confidence which I still have, that your Royal Highness would not, in my case, suffer any honorable motive, which could appear to have had for a basis a zeal for the interest of his Majes-



ty's service, finally to labor under disadvantages inconsistent with that impartial justice which has hitherto so gloriously distinguished your Royal Highness's command of the British army.— Wherefore I humbly presume most earnestly to implore, that your Royal Highness would be pleased to pray that his Majesty would, with his wonted benevolence, afford me an opportunity of proving that I have not alleged groundless and malicious charges against colonel Stewart of his 43d regiment.

Having reason to apprehend that your Royal Highness has been greatly prejudiced against me by a statement of the officers of the 43d regiment, contradicting a seeming inaccuracy contained in a paragraph of my letter to the honorable major general Forbes, bearing date the 7th of February ultimo ; I beg leave to acknowledge that, upon a more calm reflection, I perceive that in that instance I have written my sentiments in a very different manner to what I should have done in more collected moments ; and that I am fully

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sensible my words are calculated to convey a very different meaning to what I intended them to imply ; but to shew that they were not utterly unjustifiable, I beg leave to trespass so far upon your Royal Highness's most precious moments as to observe, that they were chiefly founded upon the several circumstances of colonel Stewart's extreme instability of conduct having been much spoken of in the regiment ; indeed, I could particularize instances which I have heard from officers of unimpeached veracity, and also have heard the subject of frequent conversation, although of a different nature, yet bearing a complexion not very foreign to the conduct imputed to the colonel in my first charge ; and likewise, from colonel Stewart's extraordinary partiality towards several of the junior officers \* having been so strongly remarked in the regiment, that it has long been proverbial in the corps, that those young gentlemen absolutely commanded the regiment, and that no other officer could feel himself very comfortable with

\* See Introduction.

colonel Stewart, unless he should have the good fortune to be distinguished as one of the colonel's minions.

I have the honor to be,  
With the most profound respect and duty,  
Your Royal Highness's  
Most obedient and most humble servant,

NATH. JEKYLL,  
Late captain in his Majesty's 43d regiment.

Welbeck-street, November 12th, 1804.

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*To his Royal Highness the Commander in Chief,  
&c. &c. &c.*

SIR,

WITH the most profound humility I presume to implore, that your Royal Highness would condescend to suffer the several matters specified in my statement addressed to lieutenant colonel Gordon, on the 6th of November ultimo, and the letter which I had the honor of presenting to your Royal Highness, in person, on the 13th following,



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to occupy the first convenient moments of your Royal Highness's gracious consideration.

I beg leave to assure your Royal Highness, that my great impatience to exonerate my character from the odium of the (to me) disgraceful sentence and declaration of that general court martial, arises in no trivial degree from a pure and ardent zeal for the interest of his Majesty's service.

I have the honor to be,

With the most profound respect,

Your Royal Highness's

Most obedient and most humble servant,

NATH. JEKYLL.

Welbeck-street, December 18th, 1804.

*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,

Horse Guards, 19th Dec. 1804.

I HAVE received the Commander in Chief's commands to acknowledge the receipt of your letter of yesterday's date; and to acquaint you, that, full time having been given you to bring forward evidence before a general court martial, in support of the charges preferred by you against colonel Stewart, and which it appears by the sentence of the court martial you failed in substantiating, his Royal Highness therefore cannot, on any principle of justice, enter again into your accusation against colonel Stewart, nor recommend any alteration in the decision already given upon your case.

I have the honor to be, Sir,

Your most obedient servant,

J. W. GORDON.

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*To his Royal Highness the Commander in Chief,  
&c. &c. &c.*

SIR,

I HAVE been honored with a letter from lieutenant colonel Gordon, dated Horse Guards, Dec. 19th ult. acknowledging that which I had the honor of presenting in person on the preceding day; and acquainting me, that, as full time had been given me to bring forward evidence before a general court martial in support of the charges preferred by me against colonel Stewart, and which it appeared by the sentence of a court martial I had failed in substantiating, your Royal Highness, therefore, cannot enter again into my accusations against colonel Stewart, or recommend any alteration in the decision already given upon my case.

I presume that I have already unquestionably demonstrated to your Royal Highness, that I am at length in possession of documents which, in my own justification, might fully prove every part of my first charge; likewise, that the defence op-



posed to it represented but a series of the most glaring inconsistencies and egregious inaccuracies ; further, I have shewn that, so far from my second charge being without foundation (although, from the reasons stated, I was unable to proceed with it before the court martial), the most serious state of insubordination was excited in my late company by the very unbecoming treatment which I have represented myself to have experienced from colonel Stewart, relating to the duty of my late company ; moreover, I have strenuously affirmed to your Royal Highness, that my having advanced upon the prosecution without the whole of the testimony, which I have since informed your Royal Highness I could adduce in my own defence, proceeded purely from an ardent zeal for the interest of his Majesty's service, at a seemingly critical juncture of a menaced invasion being about (or rather attempted) to be carried into execution ; added to a full conception, that it would have been an unpardonable crime to have imagined that, in an event which I could not have expected—the failure of my charges, your Royal Highness, after

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being informed of the state of my case, would abandon me to the total loss of a commission which I purchased near ten years since, and to the dreadful weight of an ignominious sentence of a court martial held on colonel Stewart—which, I trust, can no longer be deemed by your Royal Highness as duly attached to me, according to any established maxim of justice or principle of equity.

But since those considerations are not admitted by your Royal Highness as sufficient grounds for affording me a military investigation, suffer me to trespass a little further upon your Royal Highness's patience, to relate several of the almost insurmountable obstacles which occurred to me in bringing forward my charges previous to the court martial; which I am most confidently persuaded could never have reached your Royal Highness's knowledge; trusting they will serve to shew how little indulgence I actually did experience in bringing forward evidence in support of my accusations.

But allow me, Sir, first to protest, that when I

felt myself impelled to represent my grievances to your Royal Highness, I was induced to perform that painful task solely from a conviction of its being an indispensable duty to develop a series of conduct which appeared to me as utterly intolerable; not only from the dreadful sensations unceasingly produced upon my wearied and degraded nerves, but also from the effect it but too evidently created in the company entrusted to my charge, to the serious prejudice of good order and military discipline; and I most solemnly aver, that at this moment I bear no malice or spirit of resentment against colonel Stewart; likewise, that in imploring a further investigation (by a court martial upon myself) into the subject of the accusations alleged by me against colonel Stewart, I have no wish to proceed upon any points beyond what the most temperate and judicious opinions may think *absolutely necessary to re-establish my fallen reputation.*

When I subscribed to my specific charges, the only alternative presented to me was the yielding to such degrading and base humiliations as must



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irretrievably have immersed the unfortunate close of my military career in the darkest shades of obloquy, and have sunk my then despicable head so deeply in the estimation of its own mind, that I never could have presumed again to lift it up in presence of the lowest of his Majesty's subjects possessing the least portion of honest repute; and in vain was it that I strenuously urged to general Sir David Dundas, through the honorable major general Forbes, that my spirits at that period labored under a degree of agitation which wholly incapacitated me for the very serious task of framing my complaints under specific heads for a court martial; and likewise, that I earnestly prayed for an opportunity of consulting some experienced military friend, or a counsel conversant in courts martial, to enable me to make out my charges properly.

Still more extraordinary must it appear to your Royal Highness, as well as to that part of the world to whom my case may be known, that notwithstanding your Royal Highness was most graciously pleased to accord me a week's leave of ab-

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sence in the month of March, three months preceding the court martial on colonel Stewart, (in consequence of my humbly petitioning your Royal Highness, through major general Calvert, for ten days' leave of absence, upon the plea of having declared my mind to have been so much agitated at the time of presenting my charges specifically to the honorable major general Forbes, ~~on account of being~~ <sup>as to have felt</sup> extremely anxious to acquire the opinion of the judge advocate general, and other able advice, respecting my charges transmitted through Sir David Dundas;) when I addressed a prayer to the adjutant general, during the period of that week's leave, supplicating your Royal Highness's permission to make such amendments in my charges as, by professional advice, I thought of great importance, I received a letter from colonel Wynyard, (the deputy adjutant general,) dated Horse Guards, March 28th, 1804, intimating that he was "directed to inform me that the charges transmitted through general Sir David Dundas *had been inserted in a special warrant*, for his Majesty's signature," and were

“ to go to trial by a general court martial.” But some time afterwards, upon my being prompted by a wish to accommodate an officer, whose name I had given in as one of my evidences, and who was desirous of obtaining a short leave of absence, to request an old and very respectable officer to inquire of the judge advocate general when the assembling of the court martial might have been expected, I received a letter, dated April 10th, mentioning his having made an application to the deputy judge advocate general, who informed him “ that the *warrant was not then* in a state for the royal signature, neither could he” (the deputy judge advocate) even “ *say at what time it would.*”

It is true that four months did elapse from the time of presenting my specific charges to the honorable major general Forbes, in compliance with the commands of general Sir David Dundas, ere the sitting of the court martial held on colonel Stewart; and notwithstanding which, the most material of those evidences, whose names I had given in with my specific charges, were not sum-



moned to attend the trial of colonel Stewart in sufficient time to afford me the very essential support which I have evinced that the testimony of Mr. Salmond, (the late surgeon of the 43d regiment,) and that of lieutenant Delisle, (also late of the 43d regiment,) must have yielded me. This circumstance, I must confess, appeared not a little surprising, from the very particular manner in which I was positively ordered to give in the names of my evidences, together with my charges, in the month of February last ; and also from my being informed, at the same time, by major general Forbes, that whether a court martial would have been permitted to examine into my complaints would most probably depend entirely on the convenience of assembling the witnesses whom I should require. Indeed, from the manner in which I was asked whether I intended inserting the name of Sir Hugh Dalrymple in the list of my evidences, I was impressed with a thorough belief that the signifying a wish to call upon the lieutenant general would have sufficed to produce the most serious consequences to my-

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self, and secure colonel Stewart from any inquiry being instituted upon the highly improper and unmilitary conduct imputed by me to that officer.

It was but a few days before the day for the meeting of the court martial was announced, in the general orders of the southern district for the 5th of June, that I learnt only one of the evidences whose names I had given in to Sir David Dundas had been summoned to attend the trial of colonel Stewart, who merely happened to have been detained at my particular request to the adjutant general.

Yet I must acknowledge that colonel Campbell, the assistant adjutant general, did say to me, that if I insisted on postponing the trial until Mr. Salmond's attendance could be obtained, the assembling of the court martial would have been accordingly deferred: but I was informed, at the same time, that such a step would occasion the most serious inconvenience to his Majesty's service, for that a considerable delay must at all events have occurred; and not only much trouble, but great uncertainty would attend the in-



quiry after that gentleman, whom it was conjectured would most probably have been removed to some foreign station, from an appointment on the Irish staff, to which he was promoted from the 43d regiment. Under those considerations, and with an implicit faith that your Royal Highness would not actually take ungenerous advantages of motives arising purely from a zeal for the welfare of the state, I was induced to say to colonel Campbell that I would dispense with the attendance of Mr. Salmond, if he could not be obtained by the time that would otherwise be convenient for assembling the court, as I had two other witnesses to establish the fact which I wished Mr. Salmond to prove. Mr. Havelock, the paymaster to the 43d regiment, positively affirmed to have heard colonel Stewart give me permission to apply to lieutenant general Gordon for a leave of absence, (which the colonel afterwards denied to Sir Hugh Dalrymple,) and deposed that Mr. Salmond was present with him, and also witnessed the same licence to have been given me: but very improvidently I was too fully persuaded by an officer, in whom I had implicit faith, that ma-



jor Cameron would have supported, most decidedly, the testimony of Mr. Havelock, upon the point of the leave.

That surprising omission was, further, peculiarly unfortunate, in causing the total loss of the essential testimony which I might have derived from lieutenant Delisle, the officer who proceeded with the detachment under my command to Jersey; for that officer left the regiment, which he afterwards joined, from the 43d regiment, about the time that the court martial was ordered, and could not be found to give his evidence.

I have shewn to your Royal Highness that I now have documents from lieutenant Delisle, which at least must have so fully demonstrated the impressions which I invariably had of colonel Stewart's conduct upon that occasion, as must have obviated the possibility of my being accused of being instigated by malice or falsehood in preferring my charges against colonel Stewart.

Emotions of extreme delicacy toward the military department of the executive government, and to an officer whose services (whatever sensations

might have been excited within my own mind by the harsh treatment of which I have spoken) command my humble veneration, would have restrained these remarkable facts within my own wounded breast, had it not appeared to me of infinite moment to the honour and welfare of his Majesty's service, to the restoration of my own character, as well as to my private interest, to dispel the argument urged against me, by evincing to your Royal Highness, that either in forming my charges, or bringing forward evidence to support them, so far from experiencing even what could but be regarded as very ordinary indulgence, I have not met that aid and support absolutely necessary to promote and ensure the due administration of justice.

I humbly trust that, when maturely weighed with several material circumstances before submitted to your Royal Highness, the serious, and indeed almost insurmountable difficulties which I have shewn that I actually did experience in bringing forward my complaints against colonel Stewart, cannot fail to induce your Royal Highness to recommend to the most benevolent of

Sovereigns to permit me to justify my conduct (in having alleged charges against colonel Stewart without substantiating them) before a military tribunal.

But should I not very shortly be honored by a satisfactory intimation from your Royal Highness, I most humbly hope that the circumstances mentioned in my letter of the 18th of December ult. will amply plead my apology for presuming to publish such matters as may be requisite to exonerate me, in the public estimation, from the intolerably humiliating imputation of having falsely endeavoured to calumniate the character of colonel Stewart, highly injurious to the good of the service, by groundless and malicious accusations; likewise to cause the communication of my case, in its true perspective, to the most equitable of Sovereigns. I have the honor to be,

With the most profound respect,

Your Royal Highness's

most obedient and most humble servant,

NATH. JEKYLL.

11, Welbeck-street, Jan. 1, 1805.



*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,

Horse Guards, Jan. 4, 1805.

I AM directed by the Commander in Chief to acknowledge the receipt of your letter of the 1st instant, and to acquaint you, that his Royal Highness having given the fullest consideration to your statement, sees no reason to recommend an alteration of the decision already made known to you.

I have the honor to be, Sir,

Your most obedient humble servant,

J. W. GORDON.

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To Field Marshal His Royal Highness the Commander in Chief, &c. &c. &c.

The memorial of Nathaniel Jekyll, Esquire,  
late captain of his Majesty's forty-third  
(or Monmouthshire) regiment of foot,  
Sheweth,

That the memorialist having preferred certain charges against colonel Stewart of his Majesty's 43d regiment, and having failed in an attempt to

substantiate them before a general court martial commanded to examine into the same, his Majesty has been pleased to dispense with his further services as captain in the said 43d regiment. The memorialist therefore humbly implores that your Royal Highness would be pleased to take into consideration his having purchased his late company in the month of May 1795, and his having served upwards of ten years, zealously and faithfully, in the 43d regiment, without the slightest imputation being attached to him, until the above-mentioned most unfortunate event; also that the memorialist has very forcibly evinced to your Royal Highness, by several letters and statements, the cause of his not having most fully proved the first and most weighty of the accusations alleged against colonel Stewart to have proceeded entirely from an excessive degree of solicitude for the individual interest of the 43d regiment, and from an extreme ardent zeal for the general interest of his Majesty's service, at an awful and seeming critical juncture; and that your Royal Highness would graciously be pleased to supplicate his Majesty, under the

several very peculiar circumstances above stated, to exercise his wonted benevolence so far as to permit the sale of the memorialist's late company for his benefit.

And the memorialist shall ever pray, &c.

NATH. JEKYLL.

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*From Lieutenant Colonel Gordon to N. Jekyll, Esq.*

SIR,

Horse Guards, 6th Feb. 1805.

I AM directed by the Commander in Chief to acknowledge the receipt of your memorial of yesterday's date; and to acquaint you, that his Royal Highness regrets he has it not in his power to comply with your request.

I have the honor to be, Sir,

Your most obedient humble servant,

J. W. GORDON.

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*To His Royal Highness the Commander in Chief, &c.*

SIR,

HAVING, unfortunately in vain, repeatedly solicited, under very peculiar and weighty consider-



ations set forth in my several letters presented to your Royal Highness, and addressed to lieutenant-colonel Gordon, that your Royal Highness would implore the Sovereign, of his all-bounteous goodness, graciously to permit me to evince, before a general court martial, that I have not preferred groundless and malicious accusations against colonel Stewart, of his Majesty's 43d regiment, I have now most earnestly to entreat that your Royal Highness would allow me to prove, upon a multiplicity of very respectable testimony, (to your Royal Highness,) through a court of enquiry, that I failed in an attempt to substantiate my specific complaints against colonel Stewart before a general court martial assembled at Hythe on the 25th of June last, chiefly from having suffered an extreme warm zeal for the good of the service, at a critical moment when the government seemed wholly to expect an invading army upon our coasts, to induce me to enter upon the prosecution without the most essential of the evidences whose names I had actually given in, with my charges, to general Sir David Dundas, and without other important testimony which most un-

dubitably I should have required, under any other circumstances than those above mentioned ; and also from having improvidently relied, for the support of the most serious of my charges, principally upon officers whose surprising defection of memory, on that occasion, excited very strong expressions of utter astonishment by the president and members of that court martial ; trusting, in the most perfect confidence, that such matters will then be fully communicated as cannot but prompt your Royal Highness strenuously to second to his Majesty my prayer for a general court martial to be held upon my conduct in having exhibited complaints against colonel Stewart, which, in reality, were unjustly deemed groundless and malicious.

I beg leave at the same time, merely from zealous motives toward his Majesty's service, and the general welfare of the state, to present to your Royal Highness a little military compilation, (the manuscript of which, when on a much smaller scale, your Royal Highness was pleased to speak of in very flattering terms,) which perhaps might afford some humble marks of the zeal with which



I presume it might appear, upon mature enquiry, I have ever borne those commissions the most gracious of Monarchs has been pleased to confide in me in his 43d regiment.

I have the honour to be,

With sentiments of most dutiful respect,

Your Royal Highness's

Most obedient and most humble servant,

NATH. JEKYLL.

11, Welbeck-Street, May 7, 1805.

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*To His Royal Highness the Commander in Chief, &c.*

SIR,

I BEG leave most humbly to acquaint your Royal Highness that I am urged by considerations which appear to myself and to many judicious persons, of very material importance to the state at this awful period, to pray that your Royal Highness would graciously condescend to devote the first convenient moments to the prayer contained in a letter which I had the honour of addressing to your Royal Highness on the 7th instant, imploring that I might be allowed to



exonerate my character from the dreadful imputation which I must presume to acknowledge I cannot but imagine to be not only wholly unduly attached to me, but at this day rather cruelly so, from the sentence of the court martial held on colonel Stewart, by proving to your Royal Highness, on a multiplicity of very respectable testimony, through a court of enquiry, that I failed in an attempt to substantiate my specific complaints against colonel Stewart, before a general court martial, chiefly from having suffered an extreme warm zeal for the good of the service at a critical moment, when the government seemed confidently to expect an invading army upon our coasts, to induce me to enter upon the prosecution without the most essential of the evidences, whose names I had given in with my charges to general Sir David Dundas ; and without other weighty testimony which most indubitably I should have required under any other circumstances than those before mentioned ; and also, from having improvidently relied for the support of the most serious of my charges principally upon officers whose surprising defection of memory, in that

instance, produced very strong expressions of utter astonishment from the president and members of that court martial.

Should not your Royal Highness very shortly deign to honor me with any intimation upon the subject of that humble supplication, I hope I shall not be deemed to exceed the bounds of the most possible dutiful respect to your Royal Highness in praying, through a member, whose patriotic spirit will not fail to display a warm interest in the honor of every part of his Majesty's service, and for the due administration of impartial justice to every individual of his Majesty's dutiful and loyal subjects, that the parliament would deliberately hear my truly hard case; and communicate it, in its proper perspective, to the most beloved and most equitable of Monarchs.

I have the honor to be,

With the most dutiful respect,

Your Royal Highness's most obedient

And most humble servant,

NATH. JEKYLL.

11, Welbeck Street, May 14, 1805.



*To His Royal Highness the Commander in Chief, &c.*

SIR,

I MOST humbly beg leave again to pray that your Royal Highness would be graciously pleased to suffer me, with a view of obtaining a general court martial upon my conduct, to demonstrate to your Royal Highness, through a court of enquiry, that I have not preferred groundless and malicious accusations against colonel Stewart, of his Majesty's 43d regiment.

Should your Royal Highness feel indisposed towards my humble prayer, I presume, with the most respectful humility, to request that your Royal Highness would condescend to intimate to me, upon what principle of equity or policy I am destined to labour under an unjust imputation of endeavoring falsely to calumniate the character of my late commanding officer, "most highly injurious to the good of the service;" and am totally deprived of a commission which I purchased, without a fair and equitable trial. Surely your Royal Highness will not maintain that I have already experienced a full and impartial trial, by



the court martial held on colonel Stewart ; when I have made it appear so forcibly to your Royal Highness that my not having most fully substantiated my first charge, and proved that my second was actually far from being unfounded, proceeded from my not having had due support in forming my specific charges ; and from my having allowed an extreme ardent zeal for the good of his Majesty's service, at a critical period, to have operated so far above all self-interested consideration, as to have entered upon the prosecution of colonel Stewart without the most material of the evidences, whom I might have brought forward in my support ; and after I have most strenuously protested to your Royal Highness, that the court peremptorily refused even to permit me to speak in my own justification.

I have the honor to be,

With dutiful respect,

Your Royal Highness's

Most obedient and most humble servant,

NATH. JEKYLL.

11, Welbeck Street, May 21, 1805.

*To His Royal Highness the Commander in Chief, &c.*

SIR,

I PRESUME again (my several of the 7th, 14th, and 21st of May ultimo, to the same effect, not having yet been honored with the reply which your Royal Highness was graciously pleased to assure me I should receive) most humbly to implore that your Royal Highness would be pleased to permit me to evince to your Royal Highness, through a court of inquiry, that I have not actually alleged groundless and malicious accusations against colonel Stewart, of his Majesty's 43d regiment, before the general court martial held on that officer.

I have the honor to be,

With dutiful respect,

Your Royal Highness's

Most obedient and most humble servant,

NATH. JEKYLL.

Huntsmore Lodge, June 11, 1805.

SIR,

Horse Guards, 13th June, 1805.

IN reply to your letter of the 11th instant, I am directed by the commander in chief to acquaint you, that your request having been already repeatedly refused, his Royal Highness does not see any reason to alter the decision made known to you, or to continue any further correspondence on this subject.

I have the honor to be, Sir,

Your most obedient humble servant,

J. W. GORDON.

*To N. Jekyll, Esq.**Huntsmore Lodge, near Uxbridge.*

*To the Right Honorable Sir Charles Morgan, Bart.  
Judge Advocate General of His Majesty's Forces,  
&c. &c. Downing Street.*

Huntsmore Lodge, near Uxbridge,

SIR,

July 20, 1805.

I HAVE to request you would be pleased to suggest to me the proper channel, likewise if there be any prescribed form, of preferring a pro-



test to the Sovereign against the proceedings of a general court martial, for the most grievous and highly unjust partiality in their proceedings; whereby the honour and interest of his Majesty's service, as well as the chief aims of justice in the institution of trial, have been grossly violated.

The case to which I allude, and upon which I presume to entreat your able opinion and advice, relates to the general court martial held on colonel Stewart, of his Majesty's 43d regiment of foot, assembled at Sandgate on the 25th of June 1804, at which it was my unfortunate lot to appear as the prosecutor; and the circumstances by which I feel myself most seriously aggrieved are, that the court have wholly suppressed, in their minutes, several very material parts of the depositions made by several evidences who were sworn by the court on the part of the prosecution; and have neglected to notice, upon their proceedings, several other matters essentially connected with the charges committed to their examination, which actually occurred before the court, and which I firmly believe could not have failed to have made very deep impressions on the gracious mind of the

Monarch, had they been ingenuously recorded, as I humbly conceive that a due regard for the prevalence of impartial justice and humanity (to an officer who was repeatedly declared, by the president and other members of the court, to have been placed in the most awkward and painful situation, such as no human foresight could have expected, from a most extraordinary defection of memory in several officers summoned to support the prosecution) ought to have prompted; by which omissions and surprising neglect his Majesty has been egregiously misled with regard to my conduct in exhibiting specific charges against colonel Stewart before the said general court martial; and has been induced, through very wise and laudable motives, to dispense with my farther services as a captain in his 43d (or Monmouthshire) regiment of foot; and has (undeservedly) deprived me of every benefit of the said commission, which, with the royal concurrence, I purchased in the month of May in the year 1795, and which I trust an impartial and mature inquiry would prove that I have invariably borne with the most fervent loyalty, and with a very ardent zeal

for the honor and interest of his Majesty's service.

In the first place, it appears to me material that some notice should have been made on the proceedings that major Cameron, when called before the court to give evidence upon the first part of my first charge, affirmed, that his mind having been deeply engaged in discourse with other officers, he had distinctly heard but a very small part of the conversation which passed between colonel Stewart and myself in his presence, on the evening of the 22d of February 1802, concerning my return from Jersey ; and that he retained so very imperfect a remembrance of any words he heard upon that occasion, that he felt himself incapable of giving any decisive testimony. Secondly, I cannot but consider it a matter of almost infinite importance to have appeared upon the face of the proceedings, that paymaster Havlock, having deposed to have been walking in company with Mr. Salmon, (the late surgeon of the 43d regiment,) in the yard of Amhurst Barracks, in the island of Guernsey, on the morning of the 23d of February 1802, and to have heard



colonel Stewart (addressing himself to me) say, very clearly and distinctly, "As soon as you have established your party in Jersey you may return," was asked by me if he remembered having had any particular conversation [I perceive, by the copy of the proceedings of the court martial which you, Sir, were pleased to favour me with, that the Deputy Judge Advocate has also very inaccurately stated this query, having written, "do you remember to have made any observation," &c.] with Mr. Salmon after I was put in arrest, (as it was given out, for returning without the sanction of colonel Stewart,) in which they both agreed that I had actually received the leave from colonel Stewart, and that Mr. Havelock replied most positively in the affirmative; and added, that they both (evidently meaning in the conversation which happened subsequent to the arrest) conceived that I had had colonel Stewart's leave, from the tenor of that part of the conversation which they heard. - Thirdly, the court have totally omitted so very material a circumstance essentially concerning my charges as that of my having signified to the court, when it was obvious that I was

quite unexpectedly obliged to close the prosecution, that I reserved the mention of several very peculiar and weighty matters till the reply which I should make to the defence of colonel Stewart, the court not then giving me even the slightest intimation that any probable event could possibly preclude me from offering such remarks as I should think of moment for their special consideration, or prevent my stating any facts relative to my charges which were not then to have been substantiated by witnesses, in the course of my comments on the defence ; and that upon the plea of colonel Stewart's not having adduced any evidence in his defence, to my utter amazement I was peremptorily refused permission to speak upon several facts which I then, and before, represented as of considerable consequence. Neither have the court made any kind of mention, in their proceedings, of the most extraordinary defalcation of memory in those officers who were on Sir Hew Dalrymple's staff in the island of Guernsey, who were called upon to substantiate the second part of my first charge, although the president and other members frequently declared aloud that their

want of recollection far indeed exceeded what they had ever before met with or heard of, and that it was utterly impossible for me to have been aware of it. Moreover the president repeatedly protested, in the most strong and impressive manner, to lieutenant-colonel Leighton and to major Barclay, that I was entirely lost—meaning, I presume, that my first charge had failed through their want of memory.

If the court had not so absolutely refused me permission to mention some essential circumstances which at the close of the prosecution they left me so confidently to expect would be received, after the defence, with my reply, I should, in the first step, have clearly accounted for the imperfect notion major Cameron had on my leave from colonel Stewart being coupled with a relief, by detailing a fact well known to several officers of the 43d regiment, which I imagine must have appeared in no small degree confirmed by a copy of the regimental orders of the 22d and 23d of February 1802, laid before the court at the opening of the proceedings. When colonel Stewart directed me to take charge of the recruiting party ordered to



Jersey, the colonel said he should not order a subaltern with me, but would send one in two or three days afterwards, to join the detachment. I still think it most probable that several of my late brother officers might also call to mind that at the same time the colonel, in plain and unequivocal language, said to me, that as soon as my subaltern should arrive I might request general Gordon's leave of absence, mentioning my having had his sanction to the application, on account of Mrs. Jekyll's being then extremely ill in Guernsey, and having been ordered by her physician to England as soon as she could possibly bear the removal. The detachment not having sailed on the evening of the 22d, as was expected when ordered by the colonel to embark, owing to some unlooked-for incident having detained the packet, at my request the subaltern was on the next day ordered to accompany the party, I concluded for the sole purpose of enabling me to obtain a leave of absence from lieutenant-general Gordon. And if what I have before asserted to have been stated to the court by major Cameron, of his having heard but a few very small, unconnected parts of the

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conversation respecting my leave to return from Jersey, and his having retained scarcely any recollection of what he did hear, had been shewn upon the minutes of the court, major Cameron's ideas upon that occasion having been so excessively confused and inconsistent, that he deposed to have believed, from what he heard between colonel Stewart and myself, that I had no permission to quit Jersey till another officer should *relieve me*; and again affirmed, on the contrary, almost at the same moment, that he did not recollect to have understood that my *being relieved* was the *only condition* upon which I was to have returned from Jersey; it is to be presumed that at least extremely strong doubts must have occurred to his Majesty—such as could only have been removed by farther inquiry upon that part of major Cameron's evidence, which perhaps, upon a mere superficial view, might have yielded an unfavourable complexion to my charge, especially as colonel Stewart could not attempt to prove, or even offer any explanation of plausible reason for his not having it in his power to have sent another captain with the recruiting party, when humanity dictated to

him "the propriety of doing what was in" his "power to alleviate the sufferings of" myself, on account of "Mrs. Jekyll's being confined by a "dangerous illness," instead of ordering me to Jersey with a positive and avowed determination of sending another captain to relieve me within a very few days afterwards.

And then had the reply of Mr. Havelock (to my question whether he had any particular conversation with Mr. Salmon after my being put in arrest, in which they both agreed that I had had colonel Stewart's leave) been ingenuously stated upon the proceedings, it must instantly have struck his Majesty that if Mr. Salmon had been present I should have had two very respectable witnesses, who would have so forcibly supported my assertion of having had colonel Stewart's sanction to obtain a leave of absence, which it appeared to the court (by col. Stewart's own statement) he afterwards denied to Sir Hew Dalrymple, as to have proved, in one instance, the colonel's giving me that licence in such an indubitable shape, that not even the event of my being put in arrest, and suffering other degrading humiliations, for the supposed of-



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fence of quitting my recruiting party without colonel Stewart's approbation, producing the slightest shadow of doubt in their minds of my having received his most entire concurrence to return from Jersey, as I did. The testimony of Mr. Havelock and of major Cameron, on the face of the proceedings, likewise affords strong presumptive grounds for belief that Mr. Salmon would have proved the same leave to have been given by colonel Stewart at two distinct periods—on the evening of the 22d, and on the morning of the 23d of February. I have infinitely too high respect both for the ostensible personage and the office of the judge advocate general of his Majesty's forces to suppose that if you, Sir, could only have surmised that it might have been of any advantage to me to have explained the cause of Mr. Salmon's not appearing as a witness on the part of the prosecution, you would for a moment have hesitated upon candidly representing to the Sovereign that it was attributable to a surprising negligence either in the office of the adjutant-general or in your own department, in not ordering the attendance of those officers, whose names I had

given in with my charges, in due time; added to a zealous regard for the good of his Majesty's service having evidently created in me a wish not to inconvenience it by protracting the trial of colonel Stewart longer than I thought I could possibly avoid.

I will not attempt to trespass so far upon your indulgent patience as to state my sentiments at length upon the inconsistencies and improbabilities which appear in the evidence of lieutenant-colonel Leighton and major Barclay, as colonel Stewart, in the defence recorded upon the proceedings of his court martial, has confirmed the second part of my first charge in the fullest possible degree, and has unquestionably refuted the inaccurate ideas which those officers had, at the trial, of mutual concessions or any explanation having been made, between colonel Stewart and myself, before Sir Hew Dalrymple. Indeed the astonishingly illiberal and highly unbecoming conduct which Sir Hew Dalrymple must appear to have committed towards me, in that case, must alone, I trust, convince his Majesty of the total improbability of such an occurrence. But still it

seems to me so material that the amazing defection of memory in those officers should have been noticed on the proceedings of the general court martial, that it may reasonably be supposed, if his Majesty had not been thoroughly satisfied with the acknowledgements and assertions of colonel Stewart, his most gracious mind would have felt an earnest wish to be informed by Sir Hew Dalrymple upon those points of the second part of my first charge which had so escaped the memory of the officers who had been on his staff at the time they are stated to have taken place.

I particularly entreat you would be pleased to favour me with your opinion whether there does not clearly appear a flagrant breach of the solemn oath imposed by the Articles of War on every individual member of that and every other general court martial, in passing an unanimous declaration on the conduct of the prosecutor or upon the prisoner, the more especially as it is not to be imagined but that the court actually supposed the said declaration would have been fatal to every prospect in my then profession. Every member solemnly swore that he would “not, upon any account, at



“ any time whatever, disclose the vote or opinion  
“ of any particular member of the court martial,  
“ unless required to give evidence thereof, as a  
“ witness, by a court of justice, in a due course  
“ of law.”

I must confess that I feel not a little disposed to appeal to a civil court of justice, in the event of your opinion coinciding with my very humble sentiments upon these very serious transactions, in case of my not being able to obtain an opportunity of vindicating my much-injured character before a military tribunal. This inclination is greatly encouraged by the remarkable fact of my having been well informed that many officers who attended the trial of colonel Stewart, and who were wholly unprejudiced from having any previous knowledge of or acquaintance with either party, publicly declared that they could not entertain the least doubt upon the truth and justice of my first charge, from what they heard in evidence before the court.

I cannot believe that there is a person in the whole British empire whose heart would not be agitated by the strongest emotions of honest in-

dignation at any insinuation that the most benevolent and most equitable of Monarchs could have been prevailed on to have deprived an officer, who had served upwards of ten years faithfully and zealously without the faintest shade of imputation to his character, totally of a commission which he had been permitted to purchase, and have destined him to labour under the dreadful and most odious stigma of having preferred groundless and malicious accusations against another officer, without permitting him to vindicate himself before another general court martial appointed to examine into his conduct in urging charges which he had failed in an attempt to substantiate, had it been made to appear, that so far from his having been fully and impartially evidenced to his Majesty, he had been peremptorily refused permission even to speak before the court martial in his justification ; and whilst there existed very strong grounds for conjecture that his not having produced such other evidence as it was but reasonable to suppose must have established at least the most serious of his specific charges, resulted

from a most fervent zeal for the good of the service at an awful period of political affairs.

Under that conviction I have to request you would be pleased to honour me with your opinion whether the before-mentioned circumstances might not be considered as very sufficient grounds for presuming to address the Sovereign in humble petition to be further heard in my defence relative to the specific charges exhibited by me against colonel Stewart of his Majesty's 43d regiment, upon the plea of my case not having been fully and impartially evidenced to his Majesty on the proceedings of the general court martial held on the said colonel Richard Stewart, at Sandgate, in the month of June 1804; and also that you would be pleased to make known to me the proper channel of protesting to the throne upon a manifest injustice in the proceedings of a general court martial.

Perhaps it may be necessary that I should acquaint you with the cause of my not having thus addressed myself to you long ere this, being the effect of a mistaken confidence that the Com-



mander in Chief could not have been so insensible to the claims of justice as to have refused forwarding my prayer to his Majesty, petitioning for an opportunity of vindicating my unjustly-wounded character before a general court martial, or at least to have granted me a court of inquiry, upon my making it appear to his Royal Highness my not having proved that my charges were neither groundless nor malicious arose from my having been placed under almost insuperable difficulties in forming as well as in prosecuting them, instead of experiencing the aid and support which appear to me necessary to promote and ensure the due administration of justice ; from my having allowed a (perhaps false) sense of honour to my late regiment, under peculiar circumstances, to have prevented my examining any officers belonging to the 43d regiment, upon the testimony which I too confidently expected from those whom I called forward as witnesses ; and from an ardent zeal for his Majesty's service having so far operated with me above every self-consideration as to have occasioned my venturing upon the prosecution without several of the most material

evidences whom I might have had in support of my charges.

Since even these considerations are not, in the eyes of his Royal Highness, sufficient reasons for granting what, until lately, has long been supposed an almost unquestionable privilege of every officer—an opportunity of justifying his character to the Sovereign and to the world, in having exhibited specific charges before a general court martial, in which, from the occurrence of unforeseen circumstances, he had failed—it must be very obvious of what immense importance it is to every individual of the army, and to the whole community, that the evidence, and every part of the proceedings essentially relating to the charges submitted to their investigation, should be faithfully recorded upon their minutes, for the information of his Majesty.

I cannot refrain from acknowledging that from what I have actually experienced, it appears to me the Commander in Chief has laid down such despotic maxims in his weak and arbitrary system as seriously menace the total ruin of every officer resisting, by appealing to him for redress, the

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most flagrant and pernicious oppression by a commanding officer ; and consequently must render a commission in the British army no longer a tenure to be desired by the lowest of his Majesty's subjects, having the least degree of manly and honorable spirit ; and that, with the most profound sentiments of loyalty and dutiful respect towards a prince of the realm, I feel it an indispensable duty to the honor and interest of his Majesty's service, as well as in justice to myself, earnestly and vigorously to pursue every advantage which, in my case, the civil and military laws of the empire may afford me. At the same time I have no other view than the causing my present cruelly hard situation to be made known to the most excellent of earthly Monarchs in its true perspective, under the most implicit confidence that that alone would ensure me an instance of that impartial justice which has so gloriously signalized every act of his reign.

I have the honor to be,

Sir,

Your most obedient and most humble servant,

NATH. JEKYL.



SIR,

Downing Street, 23d July, 1805.

I HAVE not had an opportunity until now of reading your letter (it being of considerable length) with the attention I could wish. Not knowing any precedent of such a protest as you have in contemplation, and consequently unacquainted with any mode or form in which it may be adviseable to apply, I can only recommend your advising with some officer of experience in the service with regard to any application in the military line ; and with regard to any other mode for seeking redress, you will naturally have recourse to the opinion of some eminent practitioner in the law department. If I felt myself competent to point out any adviseable mode, I should readily have done it in compliance with your request. I will ingenuously avow to you, that I am apprehensive you will find it difficult to overcome the presumption that the court martial, and the person officiating as judge advocate also, have not all conspired to injure you, and *the unanimity of the members*, the declaring of which *you consider to*

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*have been irregular, tends however to strengthen the presumption in their favor.*

I return herewith your letter, as it may be possibly useful to you in stating your case for the opinion of those whom you may think proper to consult.

I am, Sir,

Your most obedient,

And most humble servant,

CHARLES MORGAN.

*To N. Jekyll, Esq.*

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*To the Right Honorable the Secretary at War, &c.  
&c. War Office.*

SIR,

Huntsmore Lodge, near Uxbridge,

July 30, 1805.

I HAVE to request you would be pleased attentively to peruse the inclosed memorial, and lay the same before the most gracious Sovereign.

If there are any points therein specified which you might wish to have more fully explained, or to

have certified by actual document, I will most cheerfully wait on you, Sir, at any time you may please to appoint, to communicate such particular information as you might desire.

I have the honor to be, Sir,

Your most obedient

And most humble servant,

NATH. JEKYLL.

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To the Right Honorable His Majesty's Secretary  
at War, &c. &c.

The memorial of Nathaniel Jekyll, Esquire,  
late captain of His Majesty's forty-third  
(or Monmouthshire) regiment of foot,  
Sheweth,

That the memorialist having considered himself to have suffered a series of highly oppressive and unmilitary conduct from colonel Richard Stewart, as commanding officer of the said 43d regiment, he felt himself indispensably bound in duty to his



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Majesty's service, after having in vain made the greatest exertions to convince colonel Stewart of the memorialist's bearing the most fervent zeal, and that his (colonel Stewart's) most unhandsome treatment in every instance, was entirely undeserved, to communicate a general outline of his grievances to the honorable major-general Forbes, commanding at Ashford in the month of February 1804, for the information of the commander in chief of his Majesty's forces :

That, instead of any deliberate examination having been made, or caused to have been made, by his Royal Highness into the complaints of the memorialist, according to the first article of the twelfth section of the Articles of War, an intimation was conveyed to the memorialist by the honorable major-general Forbes, and assistant adjutant general colonel Campbell, that, even in the very serious misconduct imputed to him in the statement of the memorialist, submitted to the commander in chief, colonel Stewart had not suffered in the esteem and confidence of his Royal Highness, although he was therein accused of wittingly

making a false report to lieutenant-general Sir Hew Dalrymple in the month of March 1802, in the island of Guernsey, purporting that, he (colonel Stewart) had not granted the memorialist any permission to be absent from his recruiting party then stationed in the island of Jersey, notwithstanding he well knew that he had given that licence to the memorialist on the 22d of the antecedent month, thereby having caused the memorialist to have been put under an arrest, and to have suffered undeservedly the most severe and painful reprimand, and humiliating animadversions ; and of unwarrantably treating the memorialist, in his official capacity as a captain in his Majesty's 43d regiment, with such extreme disrespect in the eyes of the soldiers committed to his charge ; that very great insubordination consequently for a long while prevailed in his late company ; even so great, that the memorialist was totally unable to enforce obedience in the said company to those orders which appeared to him as absolutely necessary for the maintenance of good order and military discipline ; and the me-

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memorialist was required by the honorable major-general Forbes to submit to humiliations most disgraceful to the character of an officer and a gentleman, and extremely derogatory to the honor of his Majesty's service, in making such an abject apology to colonel Stewart, in presence of the honorable major-general Forbes, and all the officers then with the 43d regiment, as should contain a complete retraction of his accusations against colonel Stewart, with an acknowledgment of their impropriety and injustice, as well as a wish to obtain colonel Stewart's pardon for having made them :

That the memorialist having with great humility resisted the most base and insulting concessions, he was peremptorily commanded instantly to deliver to the honorable major-general Forbes, specific charges without comment, together with the names of those evidences whom he intended calling in their support :

That the memorialist, when required to give in his charges specifically, most strongly protested to the honorable major-general Forbes, that his



mind at that time laboured under an excessive degree of agitation, from the subject of his complaints, which rendered him wholly incompetent to the very important and most difficult task of forming his grievances under specific heads, for trial by a general court martial ; and most earnestly implored a short leave of absence, for the purpose of consulting experienced military friends, and acquiring the opinion of some eminent counsel in framing his charges previous to their being ultimately given in ; but that his several petitions to that effect, made to general Sir David Dundas, (then commanding the southern district,) were each unsuccessful :

That, on the 1st of March 1804, the day after his finally subscribing to the charges which were committed to trial, the memorialist addressed a letter to colonel Clinton, (then secretary to the commander in chief,) stating his having signed specific charges against colonel Stewart on the preceding day, expressing his great disappointment at not having been required to explain, in detail, the circumstances upon which he had

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presumed to build his several charges against colonel Stewart ; likewise at his not having been permitted to consult some experienced friends, and to procure the aid of counsel prior to being obliged to deliver in his specific charges ; and also imparting, that further consideration had caused an anxious wish that the commander in chief would allow him to withdraw those charges, at least until he could clearly and concisely represent to him such material facts as he deemed necessary to afford his Royal Highness a perfect idea of his then most painful situation with colonel Stewart :

That his letter to colonel Clinton not having been honored with an answer, the memorialist conceived that the commander in chief was indisposed to allow him to withdraw the charges forwarded by general Sir David Dundas ; and consequently wrote to the adjutant-general, major-general Calvert, on the 16th of March following, requesting from the commander in chief ten days leave of absence, for the purpose of soliciting the opinion of the judge-advocate general, and

other able advice, concerning his charges against colonel Stewart, upon the plea of having stated to general Sir David Dundas, through the honorable major-general Forbes, when urged for his specific charges, that his spirits were so exceedingly depressed and agitated by the galling treatment daily encountered in the face of his regiment, bringing most forcibly to mind the many instances of extreme mortification he had borne from colonel Stewart, that he was very desirous to obtain the advice of some judicious military friends, and of counsel conversant in courts martial, to enable him to make out his specific charges properly, and to arrange the several matters requisite to substantiate them :

That the honorable major-general Forbes communicated to the memorialist on the 21st of the same month, (March 1804,) his Royal Highness's having been pleased to grant him one week's leave of absence, which was ordered to commence from that day, in consequence of the application to the adjutant-general on the 16th of March :



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That the memorialist having embraced the first opportunity of submitting his case to an eminent counsellor, by whom some important amendments were suggested to his charges; the memorialist presented them to the adjutant-general in an improved shape on the 26th of March 1804, with a request that the commander in chief would suffer them to be so entered in the special warrant for the trial of colonel Stewart; and on the same day colonel Wynyard, the deputy adjutant-general, acknowledged the memorialist's "letter, inclosing a paper containing amended charges against colonel Stewart, of the 43d regiment;" and at the same time intimated that he was directed to inform the memorialist that, "the charges transmitted, through general Sir David Dundas, had been inserted in a special warrant for his Majesty's signature," and were to go to trial by a general court martial: The memorialist, from the solicitude which he can never cease to feel for the honor and welfare of the army, laments most deeply that it should appear incumbent on him ingenuously to confess to the right honorable

the secretary at war, that, from authentic intelligence which he afterwards received, conjoined with inferences naturally arising from the before-mentioned and other scarcely less surprising circumstances, the declaration that the charges which went to trial having been inserted in a special warrant for the royal signature on or before the 26th of March 1804, seems to have been both a grievous and palpable mis-statement of known fact, uttered with a wicked intent of protecting falsehood and oppression from a full and impartial investigation \*:

That on the 27th of May the honorable major-general Forbes notified to the memorialist that a general court martial was appointed in general orders, dated Canterbury, May 25th, 1804, to assemble at Hythe Barracks on Tuesday, the 5th of June 1804, at eleven o'clock A.M. in consequence of his Majesty's warrant having been

\* The special warrant, according to the date therein specified, was not signed by his Majesty until the 18th of May following, *seven weeks subsequent to the receipt of the deputy adjutant-general's letter.*



received by general Sir David Dundas, constituting major-general Moore president of a general court martial for the trial of colonel Stewart, of the 43d regiment, on charges therein specified; and on the 31st of May the memorialist received a letter from captain Munro, of the royal artillery, (the deputy judge-advocate at the trial of colonel Stewart,) acquainting him that lieutenant Ross, of the royal engineers, had been summoned as an evidence for the prosecution. That officer's name having been given in, among several others, in compliance with the orders of general Sir David Dundas in the month of March, and no other being specified in the deputy judge-advocate's letter, the memorialist conjectured that his other witnesses had not been ordered to attend the trial of colonel Stewart, and immediately proceeded to Ramsgate, the then station of captain Munro, where he learnt that his surmise was unfortunately too true:

That in consequence of a representation made to him by assistant adjutant-general colonel Campbell, that his Majesty's service would suffer very



great inconvenience by a procrastination of the trial of colonel Stewart, until the most probable period that the attendance of one or two officers on whom the memorialist had chiefly depended for the proof of the first and most serious of his charges could be obtained ; the memorialist most improvidently ventured upon the prosecution of colonel Stewart without several very important evidences, under an implicit reliance that the commander in chief would not really take the most ungenerous advantages of laudable motive which the memorialist cannot but consider himself to have encountered in the event of his not substantiating his charges, when the principle cause of his not having established at least the first and most weighty of them should have been clearly demonstrated to his Royal Highness, to have arisen entirely from an extreme fervent zeal for the service at an awful juncture :

That the excessive ardour of his zeal having so thoroughly predominated over every impulse of self-consideration, as to have impelled the memorialist upon the very critical task of prosecuting

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a commanding officer without several of the most essential of the witnesses whom he might have required; the memorialist was consequently unable to satisfy the general court martial, held on colonel Stewart, of the justice of his first charge :

That the memorialist having been greatly discouraged in his second charge by the opinion of his counsel and other judicious persons, that, under the extreme agitation of mind in which he had been obliged to give in his final charges, without necessary assistance in forming them, he had expressed it in terms too general to have been fully supported by the specific instances upon which it had been constructed, the memorialist finding several of his witnesses for that charge also fall very short on a re-examination of what they had led him to expect on the trial, he represented to the said general court martial, that his evidences to the second charge not then supporting the testimony which they had first given him, he would not detain the court to hear evidence he did not think sufficiently decisive :

That the memorialist not having before learnt,



in the course of above ten years' military experience, or having been apprised by either the court or the officiating judge advocate, that a general court martial could reject (as they absolutely did refuse his) the prayer of a prosecutor, to offer to their particular consideration such comments as he might judge to be of moment, and to recite such circumstances as he might think of importance immediately connected with the charges before the court in the course of the reply to the defence, notwithstanding the accused party should find himself unable even to attempt to refute by witnesses the accusations alleged to him : although the memorialist stated to the court at the close of the prosecution that he reserved the mention of several extraordinary and very cogent matters for the reply, which, of course, he intended to make to Colonel Stewart's defence, the court, although it was most perfectly obvious that the memorialist was quite unexpectedly obliged to stop in the prosecution of his first and most serious charge, through a defection of memory in several officers, which the president and several members repeatedly affirmed aloud to have very far surpassed what they had



ever before witnessed or heard of, and to have infinitely exceeded what was to have been imagined possible, after the defence, refused the memorialist permission to account for his not having produced such an abundance of testimony as, from what appeared in evidence to the court, might very reasonably have been expected to have confirmed his first charge beyond the reach of uncertainty, and to have explained the several causes of his not proceeding upon his second charge, and likewise to have stated to the court that it was founded upon such facts as might readily have been expected to have naturally occasioned the sensations in the mind of the memorialist therein specified :

That the court martial, not having faithfully recorded the evidence for the prosecution, and having neglected to notice candidly, on their minutes, very material parts of their proceedings, but, even under those very peculiar circumstances, having unanimously declared that the memorialist had endeavoured falsely to calumniate the character of a commanding officer, whose conduct the

court decreed to have been irreproachable during a long period of service, the great ends of justice, in the solemn and awful forms of impartial trial, have been so totally defeated, that very unmilitary and oppressive conduct, with the despicable vice of falsehood wittingly asserted by an officer in the elevated station of a lieutenant-colonel, (now colonel,) commanding a British regiment of the line, against an inferior officer under his command, have hitherto escaped wholly unpunished in colonel Stewart ; and the most benevolent Sovereign has been so grossly deceived in the conduct of the memorialist relative to those charges, that his Majesty has (undeservedly) dismissed him from the service, depriving him entirely of the regulated sum which he actually paid (with the royal sanction) for his late company, in the month of May in the year 1795, and has very unjustly destined the memorialist to bear the most odious stigma of having exhibited groundless and malicious accusations, before a general court martial, against his late commanding officer, although the memorialist cannot but feel perfectly confident

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that a mature examination into the whole tenor of his military conduct, both as an officer and a gentleman, would evince indisputable proofs of his having invariably borne those commissions entrusted to him in the 43d (or Monmouthshire) regiment of foot with the most possible fervent zeal for the honour and welfare of the army, and also for the interest of the community at large :

That the memorialist has repeatedly, with great humility, strenuously implored the Commander in Chief to pray that his Majesty, under the several very peculiar and weighty considerations herein set forth, would be pleased graciously to permit the memorialist to justify his cruelly and deeply-injured character before a general court martial, in having exhibited certain charges against colonel Richard Stewart, of his 43d (or Monmouthshire) regiment of foot, which have been unduly declared to have been groundless and malicious by a general court martial assembled at Sandgate on the 25th of June 1804, to examine into the same :

That his several petitions for a general court martial on his own conduct having proved inef-



fectual, the memorialist has also supplicated the Commander in Chief to allow him to convince his Royal Highness, through a court of inquiry, with a view to obtain a general court martial, that in his own defence he could most fully prove every part of his first charge ; likewise that the whole of what colonel Stewart advanced in contradiction to the charges therein contained composed but a mass of flagrant inconsistencies and gross inaccuracies ; likewise that his second charge was far indeed from being unfounded in egregiously unmilitary conduct.

And that his Royal Highness the Commander in Chief has been so utterly insensible to the demands of humanity and justice towards the memorialist as even to refuse the memorialist's prayer for a court of inquiry, under all the circumstances herein before mentioned.

Wherefore the memorialist humbly entreats that the right honourable the secretary at war would lay before the most equitable of Monarchs the several matters herein specified, with a most humble and fervent prayer that the Sovereign

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would be graciously pleased to suffer the memorialist to convince his Majesty, and to demonstrate to that army before which he has been unjustly degraded, through such channel as in his wisdom may seem fit, that the memorialist has not preferred groundless and malicious complaints against colonel Richard Stewart of his Majesty's 43d (or Monmouthshire) regiment of foot.

And the memorialist shall ever pray, &c.

NATHANIEL JEKYLL.

Huntsmore Lodge, near Uxbridge,

July 30, 1805.

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SIR,

War Office, Aug. 2, 1805.

I HAVE the secretary at war's directions to return the memorial inclosed in your letter of the 30th ult. the subject thereof not appertaining to his department.

I am, Sir,

Your most obedient humble servant,

F. MOORE.

*To N. Jekyll, Esq.*

*Huntsmore Lodge, near Uxbridge.*

THE END.

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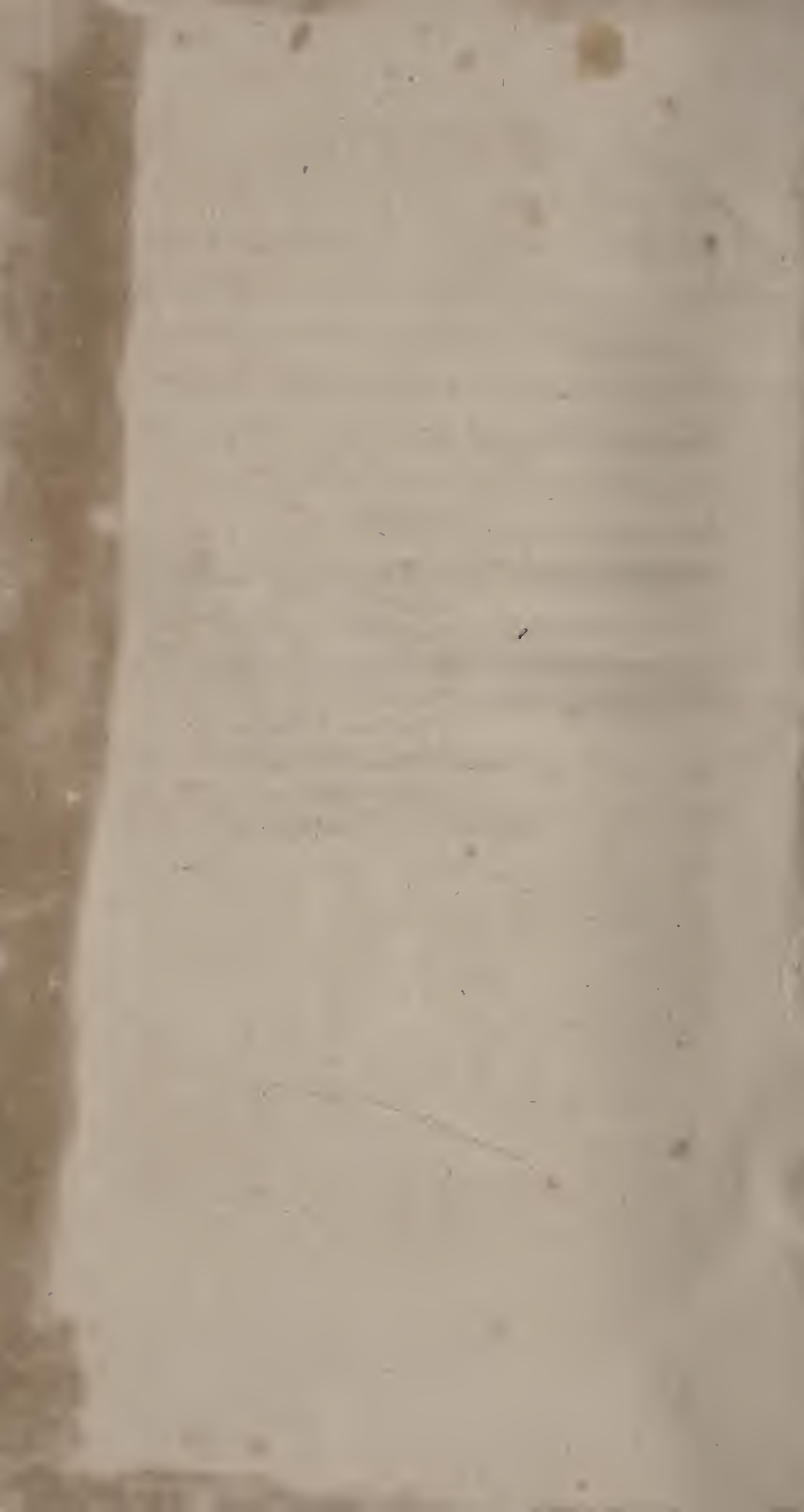
### ERRATA.

Page 2. line 18. *read* Sir Hew Dalrymple, and so throughout  
the "Vindication"

- 4. — 6. *for* recurring *read* occurring
- 26. — 14. *put a parenthesis after* adjutant general, *and*  
*in line 15, dele the parenthesis after* Dundas
- 94. — 4. *for* my *read* any
- 139. — 19. *for* strong *read* strongest
- 144. — 14. *for* have *read* has
- 185. — 18. *read* power, or authority

















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